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(Signed) Daffa-Alla Elhag Ali Osman
Permanent Representative



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**General Assembly
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Prevention of armed conflict****Security Council
Sixty-eighth year****Letter dated 19 February 2013 from the Permanent
Representative of Turkey to the United Nations addressed
to the Secretary-General**

I am writing to you with regard to the letter from Syria, dated 15 February 2013 (A/67/745-S/2013/98), which once again aims at distracting the focus of the international community on the grave humanitarian consequences of the Syrian crisis due to the deliberate and indiscriminate assault of the Syrian regime on its people.

The letter is yet another futile attempt by the Syrian regime to cover up the truth. Such unfounded allegations cannot be taken into consideration and are nothing more than a failed regime's desperate and deceptive effort to legitimize, unavailingly, the situation in Syria, by refusing to assume responsibility and putting the blame on others. The regime wages an all-out war on its people, calls them "terrorists" and denies not only their legitimate aspirations but also their fundamental rights. Contrary to how the Syrian regime portrays it, the ongoing situation in Syria is not a fight against terror. It is a struggle for democracy against tyranny.

Regional peace and stability is under serious threat due to the brutal policies of the Syrian regime, spilling over to the neighbourhood.

Having rejected similar baseless allegations of the Syrian regime in various platforms in earlier instances, Turkey will continue to cooperate with the international community to support and extend a helping hand to the Syrian people, whose legitimate aspirations should be met without further delay.

I should be grateful if the present letter could be circulated as a document of the General Assembly, under agenda item 33, and of the Security Council.

(Signed) Y. Halit Çevik



**Security Council**

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Morocco, Rwanda, Togo and United Kingdom of Great Britain and Northern Ireland: draft resolution

The Security Council,

Recalling its previous resolutions, statements of its President and press statements on the situation in Guinea-Bissau, in particular resolutions 2030 (2011) and 2048 (2012),

Taking note of the report of the Secretary-General on Guinea-Bissau, dated 11 January 2013 (S/2013/26) and the recommendations contained therein, and welcoming the activities undertaken by the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS), despite the political and security challenges in the field,

Remaining seriously concerned about the situation in Guinea-Bissau since the military coup of 12 April 2012, that undermined the conclusion of the democratic electoral process in Guinea-Bissau,

Stressing that the consolidation of peace and stability in Guinea-Bissau can only result from a consensual, inclusive and nationally owned transition process, the restoration and respect for constitutional order, the reforms in the defence, security and justice sectors, the promotion of the rule of law, the protection of human rights, the promotion of socioeconomic development and the fight against impunity and drug trafficking,

Taking note of the recent positive political developments in Guinea-Bissau and of the intention of key stakeholders to revise the transitional political pact including setting technically feasible deadlines for the holding of free, fair and transparent presidential and legislative elections in line with national legislation and relevant international standards,

Deploing the continued lack of effective civilian control and oversight over the defence and security forces, which hampers the political process and effective functioning of State institutions,

Stressing the importance of security sector reform (SSR) as a crucial element for long-term stability in Guinea-Bissau, welcoming the efforts of ECOWAS to support the SSR process in Guinea-Bissau and in this regard, taking note of the signing on 7 November 2012 of the Memorandum of Understanding (MoU) for implementation of the SSR road map, while reiterating the need for coordinated action by all relevant regional and international partners of Guinea-Bissau in this field,



Expressing serious concern by reports of continuing serious violations of human rights, including political and civil rights, as well as the atmosphere of tension in Guinea-Bissau,

Reiterating its deep concern at the reported increasing in drug trafficking in Guinea-Bissau since the military coup of 12 April 2012 and urging both the civilian and military leadership in Guinea-Bissau and international partners to demonstrate greater commitment to combat drug trafficking,

Reiterating the importance of the continued support of the United Nations and regional and bilateral partners for the long-term security and development of Guinea-Bissau, particularly towards the restoration of constitutional order, the implementation of security and justice sectors reforms, the fight against drug trafficking, organized crime and human trafficking as well as the creation of enabling environment for good governance and inclusive social and economic development,

Reaffirming the need for active and close coordination of all partners of Guinea-Bissau to address existing political, security and development challenges and welcoming in this regard, the joint mission of the African Union (AU), ECOWAS, Community of Portuguese-speaking Countries (CPLP), the European Union (EU) and the United Nations which took place in Bissau from 16 to 21 December 2012, in order to assess the political and security situation in the country, and to formulate recommendations,

Stressing that the complex situation facing Guinea-Bissau has undermined the smooth implementation of the mandate conferred by the Council to the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS), pursuant to resolution 2030 (2011), as well as activities of the Peacebuilding Commission and considering in this regard, the need expressed by the Secretary-General to realign the United Nations system's activities in the areas of state-building and peacebuilding,

Welcoming the appointment of Mr. José Ramos Horta as the new Special Representative of the Secretary-General in Guinea-Bissau and reiterating its gratitude for the work of the previous Special Representative of the Secretary-General Joseph Mutaboba for the past four years,

Reaffirming its full commitment to the consolidation of peace and stability in Guinea-Bissau:

1. *Decides* to extend the current mandate of UNIOGBIS until 31 May 2013;
2. *Requests* the Secretary-General to report at the latest by 30 April 2013 to provide an assessment of the situation in Guinea-Bissau and to make recommendations with respect to the Mission's mandate and a possible readjustment of the support of the United Nations, taking into account the scope of the challenges, and the recommendations of the joint international mission (AU, ECOWAS, CPLP, EU and United Nations);
3. *Requests* the Secretary-General to continue to work through UNIOGBIS, in coordination with other partners, including ECOWAS and CPLP, on the ongoing dialogue process among political parties, to facilitate the early finalization of a broader political agreement for the restoration of constitutional order and the holding of free, fair and transparent elections;

4. *Calls upon* Guinea-Bissau stakeholders to continue their efforts to deepen the internal political dialogue in order to create an environment conducive to the holding of free, fair and transparent elections, acceptable to all, for a rapid return to constitutional order and the long-term stabilization of Guinea-Bissau;

5. *Reiterates* its demand to the armed forces to submit themselves fully to civilian control;

6. *Condemns* the violations of human rights, including political and civil rights and urges the Guinea-Bissau authorities to take all necessary measures to protect human rights and put an end to impunity and to initiate investigations to identify the perpetrators of such acts and bring them to justice;

7. *Expresses* its willingness to consider further action, based on additional information, against those involved in drug trafficking and organized crime in Guinea-Bissau in line of paragraphs 6 and 7 of its resolution 2048 (2012);

8. *Urges* civilian and military officials in Guinea-Bissau to demonstrate greater commitment to effectively combat drug trafficking including by ensuring the proper functioning of state agencies responsible for border control and the fight against drug trafficking, and encourages them to further support the efforts of the international community to that end;

9. *Reaffirms* the importance of coordination between the main partners of Guinea-Bissau having shared goals and speaking with one voice;

10. *Decides* to remain actively seized of the matter.



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Note by the President of the Security Council

At its 6335th meeting, held on 9 June 2010 in connection with the item entitled "Non-proliferation", the Security Council adopted resolution 1929 (2010).

In paragraph 4 of the resolution, the Security Council requested the Director General of the International Atomic Energy Agency to communicate to the Council all his reports on the application of safeguards in the Islamic Republic of Iran.

Accordingly, the President herewith circulates the report of the Director General dated 21 February 2013 (see annex).



Annex

Letter dated 21 February 2013 from the Director General of the International Atomic Energy Agency addressed to the President of the Security Council

I have the honour to enclose herewith the report requested by the Security Council in its resolution 1929 (2010), which I have submitted today to the Board of Governors of the International Atomic Energy Agency (see enclosure).

I should be grateful if you would bring the present letter and the enclosed report to the attention of all Members of the Security Council.

(Signed) Yukiya Amano

Enclosure*

Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran

Report by the Director General

A. Introduction

1. This report of the Director General to the Board of Governors and, in parallel, to the Security Council, is on the implementation of the NPT Safeguards Agreement¹ and relevant provisions of Security Council resolutions in the Islamic Republic of Iran (Iran).

2. The Security Council has affirmed that the steps required by the Board of Governors in its resolutions² are binding on Iran.³ The relevant provisions of the aforementioned Security Council resolutions⁴ were adopted under Chapter VII of the United Nations Charter, and are mandatory, in accordance with the terms of those resolutions.⁵

3. This report addresses developments since the Director General's previous report (GOV/2012/55, 16 November 2012), as well as issues of longer standing. It focuses on those areas where Iran has not fully implemented its binding obligations, as the full implementation of these obligations is needed to establish international confidence in the exclusively peaceful nature of Iran's nuclear programme.

* Circulated to the Board of Governors of the International Atomic Energy Agency under the symbol GOV/2013/6.

¹ The Agreement between Iran and the Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/214), which entered into force on 15 May 1974.

² The Board of Governors has adopted 12 resolutions in connection with the implementation of safeguards in Iran: GOV/2003/69 (12 September 2003); GOV/2003/81 (26 November 2003); GOV/2004/21 (13 March 2004); GOV/2004/49 (18 June 2004); GOV/2004/79 (18 September 2004); GOV/2004/90 (29 November 2004); GOV/2005/64 (11 August 2005); GOV/2005/77 (24 September 2005); GOV/2006/14 (4 February 2006); GOV/2009/82 (27 November 2009); GOV/2011/69 (18 November 2011); and GOV/2012/50 (13 September 2012).

³ In resolution 1929 (2010), the Security Council: affirmed, inter alia, that Iran shall, without further delay, take the steps required by the Board in GOV/2006/14 and GOV/2009/82; reaffirmed Iran's obligation to cooperate fully with the IAEA on all outstanding issues, particularly those which give rise to concerns about the possible military dimensions of the Iranian nuclear programme; decided that Iran shall, without delay, comply fully and without qualification with its Safeguards Agreement, including through the application of modified Code 3.1 of the Subsidiary Arrangements; and called upon Iran to act strictly in accordance with the provisions of its Additional Protocol and to ratify it promptly (paras. 1-6).

⁴ The United Nations Security Council has adopted the following resolutions on Iran: 1696 (2006); 1737 (2006); 1747 (2007); 1803 (2008); 1835 (2008); and 1929 (2010).

⁵ By virtue of its Relationship Agreement with the United Nations (INFCIRC/11, Part I.A), the Agency is required to cooperate with the Security Council in the exercise of the Council's responsibility for the maintenance or restoration of international peace and security. All Member States of the United Nations agree to accept and carry out the decisions of the Security Council and, in this respect, to take actions which are consistent with their obligations under the United Nations Charter.

B. Clarification of Unresolved Issues

4. In November 2011, the Board adopted resolution GOV/2011/69, in which, *inter alia*, it stressed that it was essential for Iran and the Agency to intensify their dialogue aimed at the urgent resolution of all outstanding substantive issues for the purpose of providing clarifications regarding those issues, including access to all relevant information, documentation, sites, material and personnel in Iran. In that resolution, the Board also called on Iran to engage seriously and without preconditions in talks aimed at restoring international confidence in the exclusively peaceful nature of Iran's nuclear programme. In light of this, between January and the beginning of September 2012, Agency and Iranian officials held six rounds of talks in Vienna and Tehran, including during a visit by the Director General to Tehran in May 2012. However, no concrete results were achieved.⁶

5. On 13 September 2012, the Board adopted resolution GOV/2012/50, in which, *inter alia*, it decided that Iranian cooperation with Agency requests aimed at the resolution of all outstanding issues was essential and urgent in order to restore international confidence in the exclusively peaceful nature of Iran's nuclear programme. The Board also stressed that it was essential for Iran to immediately conclude and implement a structured approach for resolving outstanding issues related to possible military dimensions to its nuclear programme, including, as a first step, providing the Agency with the access it had requested to relevant sites. Immediately following the adoption of that resolution, the Agency took steps to engage Iran in further talks.⁷

6. Since the Director General's November 2012 report, Agency and Iranian officials have held three further rounds of talks in Tehran — on 13 December 2012, 16 and 17 January 2013 and 13 February 2013 — aimed at finalizing the structured approach document.⁸ While the Secretariat's commitment to continued dialogue is unwavering, it has not been possible to reach agreement with Iran on the structured approach or to begin substantive work on the outstanding issues, including those related to possible military dimensions to Iran's nuclear programme.

C. Facilities Declared under Iran's Safeguards Agreement

7. Under its Safeguards Agreement, Iran has declared to the Agency 16 nuclear facilities and nine locations outside facilities where nuclear material is customarily used (LOFs).⁹ Notwithstanding that certain of the activities being undertaken by Iran at some of the facilities are contrary to the relevant resolutions of the Board of Governors and the Security Council, as indicated below, the Agency continues to verify the non-diversion of declared material at these facilities and LOFs.

⁶ GOV/2012/37, para. 8.

⁷ GOV/2012/55, para. 6.

⁸ The current focus of the document is on the issues outlined in the Annex to the Director General's November 2011 report. The other outstanding issues will need to be addressed separately.

⁹ All of the LOFs are situated within hospitals.

D. Enrichment Related Activities

8. Contrary to the relevant resolutions of the Board of Governors and the Security Council, Iran has not suspended its enrichment related activities in the declared facilities referred to below. All of these activities are under Agency safeguards, and all of the nuclear material, installed cascades and the feed and withdrawal stations at those facilities are subject to Agency containment and surveillance.¹⁰

9. Iran has stated that the purpose of enriching UF₆ up to 5% U-235 is the production of fuel for its nuclear facilities¹¹ and that the purpose of enriching UF₆ up to 20% U-235 is the manufacture of fuel for research reactors.¹²

10. Since Iran began enriching uranium at its declared facilities, it has produced at those facilities:

- 8271 kg (+660 kg since the Director General's previous report) of UF₆ enriched up to 5% U-235, of which 5974 kg remain in the form of UF₆ enriched up to 5% U-235¹³ and the rest has been further processed (as detailed in paras. 19 and 25-27 below); and
- 280 kg (+47 kg since the Director General's previous report) of UF₆ enriched up to 20% U-235, of which 167 kg remain in the form of UF₆ enriched up to 20% U-235¹⁴ and the rest has been further processed (as detailed in para. 45 below).

D.1. Natanz

11. **Fuel Enrichment Plant:** FEP is a centrifuge enrichment plant for the production of low enriched uranium (LEU) enriched up to 5% U-235, which was first brought into operation in 2007. The plant is divided into Production Hall A and Production Hall B. According to design information submitted by Iran, eight units are planned for Production Hall A, with 18 cascades in each unit, which totals approximately 25,000 centrifuges in 144 cascades. Iran has yet to provide the corresponding design information for Production Hall B.

12. As of 19 February 2013, Iran had fully installed 74 cascades in Production Hall A, partially installed three other cascades and completed preparatory installation work for the other 67 cascades.¹⁵ On that date, Iran declared that it was feeding 53 of the fully installed cascades with natural UF₆.

¹⁰ In line with normal safeguards practice, small amounts of nuclear material (e.g., some waste and samples) may not be subject to containment and surveillance.

¹¹ As declared in Iran's design information questionnaires (DIQs) for the Fuel Enrichment Plant (FEP) at Natanz.

¹² GOV/2010/10, para. 8; as declared in the DIQ for the Fuel Plate Fabrication Plant (FPFP).

¹³ This comprises nuclear material in storage, as well as nuclear material in the cold traps and still inside cylinders attached to the enrichment process.

¹⁴ This comprises nuclear material in storage, nuclear material in the cold traps and still inside cylinders attached to the enrichment process, and nuclear material in cylinders attached to the conversion process.

¹⁵ As of 19 February 2013, 12,669 IR-1 centrifuges (+2,255 since the Director General's previous report) and, in two cascades, 180 IR-2m centrifuges and empty centrifuge casings were installed in FEP.

13. In a letter dated 23 January 2013, Iran informed the Agency that IR-2m centrifuges "will be used" in one of the units of Production Hall A.¹⁶ At the request of the Agency, Iran, in a letter dated 6 February 2013, provided additional information on the planned cascade configuration for the unit that would comprise IR-2m centrifuges and provided other related technical information. On 6 February 2013, the Agency observed that Iran had started the installation of IR-2m centrifuges and empty centrifuge casings. This is the first time that centrifuges more advanced than the IR-1 have been installed in FEP.

14. As a result of the physical inventory verification (PIV) carried out by the Agency at FEP between 20 October 2012 and 11 November 2012, the Agency verified, within measurement uncertainties normally associated with such a facility, the inventory of nuclear material as declared by Iran on 21 October 2012.

15. The Agency has confirmed that, as of 21 October 2012, 85 644 kg of natural UF₆ had been fed into the cascades since production began in February 2007, and a total of 7451 kg of UF₆ enriched up to 5% U-235 had been produced. Iran has estimated that, between 22 October 2012 and 3 February 2013, a total of 9106 kg of natural UF₆ was fed into the cascades and a total of approximately 820 kg of UF₆ enriched up to 5% U-235 was produced, which would result in a total production of 8271 kg of UF₆ enriched up to 5% U-235 since production began.

16. Based on the results of the analysis of environmental samples taken at FEP since February 2007,¹⁷ and other verification activities, the Agency has concluded that the facility has operated as declared by Iran in the relevant design information questionnaire (DIQ).

17. **Pilot Fuel Enrichment Plant:** PFEP is a research and development (R&D) facility, and a pilot LEU production facility, which was first brought into operation in October 2003. It has a cascade hall that can accommodate six cascades, and is divided between an area designated by Iran for the production of UF₆ enriched up to 20% U-235 (Cascades 1 and 6) and an area designated by Iran for R&D (Cascades 2, 3, 4 and 5).

18. **Production area:** As of 12 February 2013, Iran was continuing to feed low enriched UF₆ into two interconnected cascades (Cascades 1 and 6) containing a total of 328 IR-1 centrifuges.

19. As previously reported,¹⁸ the Agency has verified that, as of 15 September 2012, 1119.6 kg of UF₆ enriched up to 5% U-235 produced at FEP had been fed into the cascades in the production area since production began in February 2010, and that a total of 129.1 kg of UF₆ enriched up to 20% U-235 had been produced. Iran has estimated that, between 16 September 2012 and 12 February 2013, a total of 145.5 kg of UF₆ enriched up to 5% U-235 produced at FEP was fed into the cascades in the production area and that approximately 20.8 kg of UF₆ enriched up to 20% U-235 were produced. This would result in a total production of 149.9 kg of UF₆ enriched up to 20% U-235 at PFEP since production began.

¹⁶ GOV/INF/2013/3, 30 January 2013.

¹⁷ Results are available to the Agency for samples taken up to 7 August 2012.

¹⁸ GOV/2012/55, para. 18.

20. **R&D area:** Since the Director General's previous report, Iran has installed two new types of centrifuge (IR-6 and IR-6s) and has been intermittently feeding natural UF_6 into them as single machines. Iran has also been intermittently feeding natural UF_6 into IR-2m and IR-4 centrifuges, sometimes into single machines and sometimes into cascades of various sizes.¹⁹

21. Between 12 November 2012 and 12 February 2013, a total of approximately 469.2 kg of natural UF_6 was fed into centrifuges in the R&D area, but no LEU was withdrawn as the product and the tails were recombined at the end of the process.

22. In an updated DIQ dated 6 February 2013, Iran informed the Agency that it planned to start withdrawing from Cascades 4 and 5 the product and the tails separately, rather than recombining them at the end of the process as it had done previously. The Agency and Iran are discussing how safeguards measures will need to be modified as a result of the changes in the operation of these cascades. Iran has agreed not to start operations until such safeguards measures are in place.

23. Based on the results of the analysis of the environmental samples taken at PFEP,²⁰ and other verification activities, the Agency has concluded that the facility has operated as declared by Iran in the relevant DIQ.

D.2. Fordow

24. **Fordow Fuel Enrichment Plant:** FFEP is, according to the DIQ of 18 January 2012, a centrifuge enrichment plant for the production of UF_6 enriched up to 20% U-235 and the production of UF_6 enriched up to 5% U-235. Additional information from Iran is still needed in connection with this facility, particularly in light of the difference between the original stated purpose of the facility and the purpose for which it is now being used.²¹ The facility, which was first brought into operation in 2011, is designed to contain up to 2976 centrifuges in 16 cascades, divided between Unit 1 and Unit 2. To date, all of the centrifuges installed are IR-1 machines.²² Iran has yet to inform the Agency which of the cascades are to be used for enrichment up to 5% U-235 and/or for enrichment up to 20% U-235.²³

25. As of 17 February 2013, Iran was continuing to feed four cascades (configured in two sets of two interconnected cascades) of Unit 2 with UF_6 enriched up to 5% U-235;²⁴ none of the other 12 cascades had been fed with UF_6 .²⁵

¹⁹ On 19 February 2013, there were 29 IR-4 centrifuges, six IR-6 centrifuges and two IR-6s centrifuges installed in Cascade 2, nine IR-2m centrifuges and two IR-1 centrifuges installed in Cascade 3, 164 IR-4 centrifuges installed in Cascade 4 and 162 IR-2m centrifuges installed in Cascade 5.

²⁰ Results are available to the Agency for samples taken up to 22 October 2012.

²¹ GOV/2009/74, paras. 7 and 14; GOV/2012/9, para. 24. To date, Iran has provided the Agency with an initial DIQ and three revised DIQs. Each of the DIQs has stated a different purpose for the facility.

²² As of 17 February 2013, 2,710 centrifuges were installed at FFEP (-74 since the Director General's previous report).

²³ In a letter to the Agency dated 23 May 2012, Iran stated that the Agency would be notified about the production level of the cascades prior to their operation (GOV/2012/23, para. 25).

²⁴ The number of centrifuges being fed (696) remains unchanged from that reflected in the Director General's previous report (GOV/2012/55, para. 23).

²⁵ As of 17 February 2013, all eight cascades in Unit 1, and three of the four remaining cascades in Unit 2, had been subjected to vacuum testing and made ready for feeding with UF_6 . The fourth cascade in Unit 2 was incomplete.

26. Between 17 November 2012 and 3 December 2012, the Agency conducted a PIV at FFEP and verified that, as of 17 November 2012, a total of 769 kg of UF₆ enriched up to 5% U-235 produced at FEP had been fed into cascades at FFEP since production began in December 2011, and that 101.2 kg of UF₆ enriched up to 20% U-235 had been produced. As a result of this PIV, the Agency verified, within measurement uncertainties normally associated with such a facility, the inventory of nuclear material as declared by Iran on 17 November 2012.

27. Iran has estimated that between 18 November 2012 and 10 February 2013, a total of 210.1 kg of UF₆ enriched up to 5% U-235 was fed into cascades at FFEP, and that approximately 28.7 kg of UF₆ enriched up to 20% U-235 were produced. This would result in a total production of 129.9 kg of UF₆ enriched up to 20% U-235 since production began, 125.3 kg of which have been withdrawn from the process and verified by the Agency.

28. Based on the results of the analysis of environmental samples taken at FFEP,²⁶ and other verification activities, the Agency has concluded that the facility has operated as declared by Iran in its most recent DIQ for FFEP.

D.3. Other Enrichment Related Activities

29. Iran has not provided a substantive response to Agency requests for further information in relation to announcements made by Iran concerning the construction of ten new uranium enrichment facilities, the sites for five of which, according to Iran, have been decided.²⁷ Nor has Iran provided information, as requested by the Agency, in connection with its announcement on 7 February 2010 that it possessed laser enrichment technology.²⁸ As a result of Iran's lack of cooperation on those issues, the Agency is unable to verify and report fully on these matters.

E. Reprocessing Activities

30. Pursuant to the relevant resolutions of the Board of Governors and the Security Council, Iran is obliged to suspend its reprocessing activities, including R&D.²⁹ Iran has stated that it "does not have reprocessing activities".³⁰

31. The Agency has continued to monitor the use of hot cells at the Tehran Research Reactor (TRR)³¹ and the Molybdenum, Iodine and Xenon Radioisotope Production (MIX) Facility.³² The Agency carried out an inspection and design information verification (DIV) at TRR on 12 February 2013, and a DIV at the MIX Facility on 13 February 2013. It is only with respect to TRR, the MIX Facility and the other facilities to which the Agency has access that the Agency can confirm that there are no ongoing reprocessing related activities in Iran.

²⁶ Results are available to the Agency for samples taken up to 28 October 2012.

²⁷ "Iran Specifies Location for 10 New Enrichment Sites", Fars News Agency, 16 August 2010.

²⁸ Cited on the website of the Presidency of the Islamic Republic of Iran, 7 February 2010, at <http://www.president.ir/en/?ArtID=20255>.

²⁹ S/RES/1696 (2006), para. 2; S/RES/1737 (2006), para. 2; S/RES/1747 (2007), para. 1; S/RES/1803 (2008), para. 1; S/RES/1835 (2008), para. 4; S/RES/1929 (2010), para. 2.

³⁰ Letter to the Agency dated 15 February 2008.

³¹ TRR is a 5 MW reactor which operates with 20% U-235 enriched fuel and is used for the irradiation of different types of targets and for research and training purposes.

³² The MIX Facility is a hot cell complex for the separation of radiopharmaceutical isotopes from targets, including uranium, irradiated at TRR. The MIX Facility is not currently processing any uranium targets.

F. Heavy Water Related Projects

32. Contrary to the relevant resolutions of the Board of Governors and the Security Council, Iran has not suspended work on all heavy water related projects, including the ongoing construction of the heavy water moderated research reactor at Arak, the Iran Nuclear Research Reactor (IR-40 Reactor), which is under Agency safeguards.³³

33. On 11 February 2013, the Agency carried out a DIV at the IR-40 Reactor at Arak and observed that the installation of cooling and moderator circuit piping was almost complete. As previously reported, Iran has stated that the operation of the IR-40 Reactor is expected to commence in the first quarter of 2014.³⁴

34. Since its visit to the Heavy Water Production Plant (HWPP) on 17 August 2011, the Agency has not been provided with further access to the plant. As a result, the Agency is again relying only on satellite imagery to monitor the status of HWPP. Based on recent images, the plant appears to continue to be in operation. To date, Iran has not permitted the Agency to take samples of the heavy water stored at the Uranium Conversion Facility (UCF).³⁵ Since the Director General's previous report, the Agency has reiterated its requests to Iran for access to HWPP and for the taking of samples of the aforementioned heavy water. Iran has again not provided the requested access.

G. Uranium Conversion and Fuel Fabrication

35. Although Iran is obliged to suspend all enrichment related activities and heavy water related projects, it is conducting a number of activities at UCF, the Fuel Manufacturing Plant (FMP) and the Fuel Plate Fabrication Plant (FPFP) at Esfahan, as indicated below, which are in contravention of those obligations, notwithstanding that the facilities are under Agency safeguards.

36. Since Iran began conversion and fuel fabrication at its declared facilities, it has, inter alia:

- Produced 550 tonnes of natural UF₆ at UCF,³⁶ of which 107 tonnes have been transferred to FEP;
- Fed into the R&D conversion process at UCF 53 kg of UF₆ enriched up to 3.34% U-235 and produced 24 kg of uranium in the form of UO₂;³⁷
- Fed into the conversion process at FPFP 111 kg of UF₆ enriched up to 20% U-235 (+28.3 kg since the Director General's previous report) and produced 50 kg of uranium in the form of U₃O₈; and
- Transferred to TRR five fuel assemblies containing uranium enriched up to 20% U-235 and two fuel assemblies containing uranium enriched to 3.34% U-235.

³³ S/RES/1737 (2006), para. 2; S/RES/1747 (2007), para. 1; S/RES/1803 (2008), para. 1; S/RES/1835 (2008), para. 4; S/RES/1929 (2010), para. 2.

³⁴ GOV/2012/55, para. 29.

³⁵ GOV/2010/10, paras. 20 and 21.

³⁶ GOV/2012/37, para. 33.

³⁷ GOV/2012/55, para. 35.

37. **Uranium Conversion Facility:** As a result of the PIV carried out by the Agency at UCF in March 2012 and following the receipt of further information from Iran,³⁸ the Agency verified, within measurement uncertainties normally associated with such a facility, the inventory of nuclear material as declared by Iran on 2 March 2012.

38. Since the previous report, Iran has informed the Agency that it intends to conduct R&D conversion activities involving the use of natural UF_6 for the production of UO_2 .³⁹

39. According to Iran, as of 3 February 2013, it had produced 9056 kg of natural uranium in the form of UO_2 through the conversion of uranium ore concentrate. As of 5 February 2013, the Agency had verified that Iran had transferred 3823 kg of this UO_2 to FMP.

40. Since the Director General's previous report, Iran has informed the Agency that it has recovered — in the form of liquid scrap, sludge and solid waste — the majority of the nuclear material that spilled onto the floor of the facility when a storage tank ruptured last year.⁴⁰ The Agency is currently assessing Iran's declaration.

41. **Fuel Manufacturing Plant:** As a result of the PIV carried out by the Agency at FMP between 4 and 6 September 2012, the Agency verified, within measurement uncertainties normally associated with such a facility, the inventory of nuclear material as declared by Iran on 4 September 2012.

42. On 26 November 2012, the Agency verified a prototype IR-40 natural uranium fuel assembly before its transfer to TRR for irradiation testing.

43. On 9 and 11 February 2013, the Agency carried out an inspection and a DIV at FMP and confirmed that the manufacture of pellets for the IR-40 Reactor using natural UO_2 was ongoing.

44. **Fuel Plate Fabrication Plant:** As a result of the PIV carried out by the Agency at FPFP on 29 September 2012, the Agency verified, within measurement uncertainties normally associated with such a facility, the inventory of nuclear material as declared by Iran on that date.

45. On 27 September 2012, Iran suspended converting UF_6 enriched up to 20% U-235 into U_3O_8 at FPFP. Iran has estimated that, between 2 December 2012, when it resumed such conversion activities, and 11 February 2013, 28.3 kg of UF_6 enriched up to 20% U-235 were fed into the conversion process at FPFP and 12 kg of uranium were produced in the form of U_3O_8 . This would bring the total amount of UF_6 enriched up to 20% U-235 which had been fed into the conversion process to 111 kg and the total amount of uranium in the form of U_3O_8 which had been produced to 50 kg.⁴¹

³⁸ GOV/2012/55, para. 33.

³⁹ Iran had previously conducted similar R&D conversion activities using UF_6 enriched up to 3.34% U-235 (GOV/2012/55, para. 35).

⁴⁰ GOV/2012/55, para. 36.

⁴¹ GOV/2012/55, para. 38. In addition, approximately 1.6 kg of UF_6 enriched up to 20% U-235 have been blended with natural UF_6 at PFEP (GOV/2012/23, para. 19).

46. On 12 and 13 February 2013, the Agency verified seven fuel assemblies and 95 fuel plates present at the facility.

H. Possible Military Dimensions

47. Previous reports by the Director General have identified outstanding issues related to possible military dimensions to Iran's nuclear programme and actions required of Iran to resolve these.⁴² Since 2002, the Agency has become increasingly concerned about the possible existence in Iran of undisclosed nuclear related activities involving military related organizations, including activities related to the development of a nuclear payload for a missile. Iran has dismissed the Agency's concerns, largely on the grounds that Iran considers them to be based on unfounded allegations.⁴³

48. The Annex to the Director General's November 2011 report (GOV/2011/65) provided a detailed analysis of the information available to the Agency, indicating that Iran has carried out activities that are relevant to the development of a nuclear explosive device. This information is assessed by the Agency to be, overall, credible.⁴⁴ Since November 2011, the Agency has obtained more information which further corroborates the analysis contained in the aforementioned Annex.

49. In resolution 1929 (2010), the Security Council reaffirmed Iran's obligations to take the steps required by the Board of Governors in its resolutions GOV/2006/14 and GOV/2009/82, and to cooperate fully with the Agency on all outstanding issues, particularly those which give rise to concerns about the possible military dimensions to Iran's nuclear programme, including by providing access without delay to all sites, equipment, persons and documents requested by the Agency.⁴⁵ As indicated in Section B above, since the publication of the Director General's November 2011 report, although the Board has adopted two resolutions addressing the urgent need to resolve outstanding issues regarding the Iranian nuclear programme, including those which need to be clarified to exclude the existence of possible military dimensions, it has not been possible to finalize the structured approach document or to begin substantive work in this regard.

50. **Parchin:** As stated in the Annex to the Director General's November 2011 report,⁴⁶ information provided to the Agency by Member States indicates that Iran constructed a large explosives containment vessel in which to conduct hydrodynamic experiments;⁴⁷ such experiments would be strong indicators of possible nuclear weapon development. The information also indicates that the containment vessel was installed at the Parchin site in 2000. The location at the Parchin site of the vessel was only identified in March 2011, and the Agency notified Iran of that location in January 2012.

⁴² See, for example: GOV/2011/65, paras. 38-45 and Annex; GOV/2011/29, para. 35; GOV/2011/7, Attachment; GOV/2010/10, paras. 40-45; GOV/2009/55, paras. 18-25; GOV/2008/38, paras. 14-21; GOV/2008/15, paras. 14-25 and Annex; GOV/2008/4, paras. 35-42.

⁴³ GOV/2012/9, para. 8.

⁴⁴ GOV/2011/65, Annex, Section B.

⁴⁵ S/RES/1929 (2010), paras. 2 and 3.

⁴⁶ GOV/2011/65, Annex, para. 49.

⁴⁷ GOV/2011/65, Annex, para. 47.

51. As previously reported, satellite imagery available to the Agency for the period from February 2005 to January 2012 shows virtually no activity at or near the building housing the containment vessel (chamber building). Since the Agency's first request for access to this location, however, satellite imagery shows that extensive activities and resultant changes have taken place at this location.⁴⁸ The Agency has reiterated during each round of talks with Iran its request for access to the location at the Parchin site, but Iran has not acceded to that request.

52. Among the most significant developments observed by the Agency at this location since the Director General's report in November 2012 are:

- Reinstatement of some of the chamber building's features (e.g. wall panels and exhaust piping);
- Alterations to the roofs of the chamber building and the other large building;
- Dismantlement and reconstruction of the annex to the other large building;
- Construction of one small building at the same place where a building of similar size had previously been demolished;
- Spreading, levelling and compacting of another layer of material over a large area; and
- Installation of a fence that divides the location into two areas.

53. As previously reported, Iran has stated that the allegation of nuclear activities at the Parchin site is "baseless" and that "the recent activities claimed to be conducted in the vicinity of the location of interest to the Agency, has nothing to do with specified location by the Agency".⁴⁹ To date, Iran has only provided an explanation for the soil displacement by trucks, which it stated was "due to constructing the Parchin new road".⁵⁰

54. In light of the extensive activities that have been, and continue to be, undertaken by Iran at the aforementioned location on the Parchin site, when the Agency gains access to the location, its ability to conduct effective verification will have been seriously undermined. While the Agency continues to assess that it is necessary to have access to this location without further delay, it is essential that Iran also provide without further delay substantive answers to the Agency's detailed questions regarding the Parchin site and the foreign expert,⁵¹ as requested by the Agency in February 2012.⁵²

I. Design Information

55. Contrary to its Safeguards Agreement and relevant resolutions of the Board of Governors and the Security Council, Iran is not implementing the provisions of the modified Code 3.1 of the Subsidiary Arrangements General Part to Iran's Safeguards

⁴⁸ For a list of the most significant developments observed by the Agency at this location between February 2012 and the publication of the Director General's November 2012 report, see GOV/2012/55, para. 44.

⁴⁹ GOV/2012/37, para. 43.

⁵⁰ INFCIRC/847, 20 December 2012, para. 58.

⁵¹ GOV/2011/65, Annex, para. 44.

⁵² GOV/2012/9, para. 8.

Agreement.⁵³ It is important to note that the absence of such early information reduces the time available for the Agency to plan the necessary safeguards arrangements, especially for new facilities, and reduces the level of confidence in the absence of other nuclear facilities.⁵⁴

56. Contrary to Iran's obligations under the modified Code 3.1, Iran has not provided the Agency with an updated DIQ for the IR-40 Reactor since 2006. The lack of up-to-date information is having an adverse impact on the Agency's ability to effectively verify the design of the facility and to implement an effective safeguards approach.⁵⁵

57. Iran's response to Agency requests that Iran confirm, or provide further information regarding, its stated intention to construct new nuclear facilities is that it would provide the Agency with the required information in "due time" rather than as required by the modified Code 3.1 of the Subsidiary Arrangements General Part to its Safeguards Agreement.⁵⁶

J. Additional Protocol

58. Contrary to the relevant resolutions of the Board of Governors and the Security Council, Iran is not implementing its Additional Protocol. The Agency will not be in a position to provide credible assurance about the absence of undeclared nuclear material and activities in Iran unless and until Iran provides the necessary cooperation with the Agency, including by implementing its Additional Protocol.⁵⁷

K. Other Matters

59. The Agency and Iran continue to discuss the discrepancy between the amount of nuclear material declared by the operator and that measured by the Agency in connection with conversion experiments carried out by Iran at the Jibr Ibn Hayan Multipurpose Research Laboratory (JHL) between 1995 and 2002.⁵⁸

⁵³ In accordance with Article 39 of Iran's Safeguards Agreement, agreed Subsidiary Arrangements cannot be changed unilaterally; nor is there a mechanism in the Safeguards Agreement for the suspension of provisions agreed to in the Subsidiary Arrangements. Therefore, as previously explained in the Director General's reports (see, for example, GOV/2007/22, 23 May 2007), the modified Code 3.1, as agreed to by Iran in 2003, remains in force. Iran is further bound by operative paragraph 5 of Security Council resolution 1929 (2010) to "comply fully and without qualification with its IAEA Safeguards Agreement, including through the application of modified Code 3.1".

⁵⁴ GOV/2010/10, para. 35.

⁵⁵ GOV/2012/37, para. 46.

⁵⁶ GOV/2011/29, para. 37; GOV/2012/23, para. 29.

⁵⁷ Iran's Additional Protocol was approved by the Board on 21 November 2003 and signed by Iran on 18 December 2003, although it has not been brought into force. Iran provisionally implemented its Additional Protocol between December 2003 and February 2006.

⁵⁸ GOV/2003/75, paras. 20-25 and Annex 1; GOV/2004/34, para. 32, and Annex, paras. 10-12; GOV/2004/60, para. 33, and Annex, paras. 1-7; GOV/2011/65, para. 49.

60. On 12 February 2013, three fuel assemblies that had been produced in Iran and which contain nuclear material that was enriched in Iran up to 3.5% and up to 20% U-235 were in the core of TRR.⁵⁹

61. On 26 and 27 November 2012, the Agency conducted a PIV at the Bushehr Nuclear Power Plant (BNPP) and verified that the fuel assemblies that previously had been transferred to the spent fuel pond had since been reloaded into the reactor core.⁶⁰ During an inspection conducted by the Agency at BNPP on 16 and 17 February 2013, Iran informed the Agency that the reactor was shut down.

L. Summary

62. While the Agency continues to verify the non-diversion of declared nuclear material at the nuclear facilities and LOFs declared by Iran under its Safeguards Agreement, as Iran is not providing the necessary cooperation, including by not implementing its Additional Protocol, the Agency is unable to provide credible assurance about the absence of undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities.⁶¹

63. Iran has started the installation of more advanced centrifuges (IR-2m) at FEP for the first time.

64. Contrary to the Board resolutions of November 2011 and September 2012 and despite the intensified dialogue between the Agency and Iran since January 2012 in nine rounds of talks, it has not been possible to agree on the structured approach. The Director General is unable to report any progress on the clarification of outstanding issues, including those relating to possible military dimensions to Iran's nuclear programme.

65. It is a matter of concern that the extensive and significant activities which have taken place since February 2012 at the location within the Parchin site to which the Agency has repeatedly requested access will have seriously undermined the Agency's ability to undertake effective verification. The Agency reiterates its request that Iran, without further delay, provide both access to that location and substantive answers to the Agency's detailed questions regarding the Parchin site and the foreign expert.

66. Given the nature and extent of credible information available, the Agency continues to consider it essential for Iran to engage with the Agency without further delay on the substance of the Agency's concerns. In the absence of such engagement, the Agency will not be able to resolve concerns about issues regarding the Iranian nuclear programme, including those which need to be clarified to exclude the existence of possible military dimensions to Iran's nuclear programme.

⁵⁹ On 12 February 2013, the core of TRR comprised a total of 33 fuel assemblies.

⁶⁰ GOV/2012/55, para. 52.

⁶¹ The Board has confirmed on numerous occasions, since as early as 1992, that paragraph 2 of INFCIRC/153 (Corr.), which corresponds to Article 2 of Iran's Safeguards Agreement, authorizes and requires the Agency to seek to verify both the non-diversion of nuclear material from declared activities (i.e. correctness) and the absence of undeclared nuclear activities in the State (i.e. completeness) (see, for example, GOV/OR.864, para. 49 and GOV/OR.865, paras. 53-54).

67. The Director General continues to urge Iran to take steps towards the full implementation of its Safeguards Agreement and its other obligations and to engage with the Agency to achieve concrete results on all outstanding substantive issues, as required in the binding resolutions of the Board of Governors and the mandatory Security Council resolutions.

68. The Director General will continue to report as appropriate.

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**Report of the Secretary-General on the United Nations
Support Mission in Libya****I. Introduction**

1. The present report is submitted pursuant to Security Council resolution 2040 (2012) and covers major developments since the issuance of my previous report, dated 30 August 2012 (S/2012/675). It covers key political and security developments and outlines the activities undertaken by the United Nations Support Mission in Libya (UNSMIL) to implement its mandate under Security Council resolutions 2009 (2011), 2017 (2011), 2022 (2011) and 2040 (2012). The report also provides an overview of the humanitarian situation and an assessment of the progress and challenges that continue to face Libya in its democratic transition.

II. Political and security developments in Libya

2. Political and security developments in Libya during the reporting period reveal the complexities of the post-conflict democratic transition. While there has been notable progress in the country's political transformation, including the swearing in on 14 November of Libya's first democratically constituted Government, many difficulties and problems continue to illustrate the volatility and precariousness of the transition process.

3. The challenges facing Libya are further compounded by the 42-year legacy of dysfunctional State institutions, which were purposely undermined over decades of authoritarian rule. Tribal and regional tensions, the absence of political norms and the suppression of independent elites and civil society also resulted in insufficient capacity to foster the type of far-reaching changes that are required. The economic structures and policies of the former regime hindered the development of a private sector and increased the dependence of much of Libya's workforce on an ever-expanding and inefficient public sector. Thus, economic opportunities remain limited, in particular for the absorption of demobilized revolutionaries. More critically, reforming and rebuilding a much-debilitated security sector remains by far the most difficult task facing the Libyan authorities. Addressing these difficulties will require sustained and coordinated political efforts at all levels, as well as continued international support and assistance. As the Libyan people marked the first anniversary of Liberation Day on 23 October, it was clear that they had high expectations of their elected authorities to deal with the main problems the country is facing.



A. Democratic transition

4. Against a backdrop of heightened expectations alongside security developments in Benghazi, Bani Walid and elsewhere in the country, the Government of Prime Minister Ali Zeidan was sworn into office on 14 November. The confirmation of Prime Minister Zeidan's Government by the General National Congress followed two failed attempts of the previous Prime Minister-designate, Mustafa Abushagur, to secure approval for his cabinet. The broad political base of Mr. Zeidan's cabinet reflected his repeated emphasis on forming a government of national unity that is politically inclusive and regionally balanced. The two main political blocs in the General National Congress — the Coalition of National Forces and the Justice and Construction Party — were well-represented in the Government, receiving an equal number of seats. The cabinet included two women and one member of a minority community. In his inaugural speech, the Prime Minister reiterated his commitment to building a democratic civil State guided by the Constitutional Declaration that upholds human rights and the rule of law. He pledged to make security his highest priority.

5. The High Commission on Integrity and Patriotism, a Government body mandated to vet senior officials, initially excluded four ministerial nominees from Prime Minister Zeidan's cabinet, including his choice of Minister of Interior. Although the courts later overturned the Commission's decision with respect to the four ministerial nominees, there remains suspicion in some quarters that the vetting process is politicized. Vetting is seen by many as essential to safeguarding the revolution and preventing former regime officials from rebranding themselves and returning to public life.

6. The debate over the use of lustration policies acquired added impetus following a majority vote within the General National Congress on 26 December to consider enacting a law on "political isolation". Deep divisions have emerged among members of the General National Congress and political forces, particularly with respect to the potential scope and application of such a law. There are fears that insistence on such a law could be motivated by a desire to alter the political balance of power that has emerged since the national elections held in July. Disagreements over the objectives of the proposed law and its possible consequences will likely influence the discussion within the special committee appointed by the General National Congress to draft the law and well beyond.

B. Situation in Bani Walid

7. The decision by the General National Congress to authorize the use of force against elements alleged to be loyal to the former regime in Bani Walid refocused attention on the city, whose troubled relationship with the nascent Libyan State following the end of the conflict in 2011 continued to be a major source of discontent for the General National Congress and the Government. The General National Congress passed decision No. 7 on 25 September instructing the Ministries of Interior and Defence to take all necessary measures to detain those alleged to have kidnapped and tortured Omran Sha'ban, one of three detainees released by Bani Walid, following an appeal by President El-Magariaf during his visit to the city. Mr. Sha'ban, considered by many to be a national hero for his role in the capture of the former Libyan leader, Muammar al-Qadhafi, passed away in Paris

while receiving medical care for injuries allegedly sustained during his captivity in Bani Walid.

8. Intense mediation efforts aimed at defusing the stand-off with Bani Walid, including separate initiatives by President El-Magariaf and other senior tribal delegations from across the country, failed to bring an end to the military build-up outside Bani Walid and the hostilities that ensued. My Special Representative, who had at the time conveyed to the Libyan authorities the deep concern of the United Nations and the international community with regard to Libyan obligations to protect civilians, remained closely engaged with all parties concerned, offering good offices in an effort to avoid an escalation of tension between regions and the spread of violence to areas outside of Bani Walid.

9. In a televised speech to the nation on 23 October, President El-Magariaf conceded that mediation efforts had reached a dead end and that a military solution was inevitable in order to extend the State's authority to Bani Walid and arrest those operating outside of the law. Pledging every effort to protect the civilian population, he acknowledged the deteriorating humanitarian situation that had resulted from the military siege and operations.

10. On 24 October, authorities declared that military operations in Bani Walid were over and that the Libyan army had taken control of the city. The outgoing Government of Prime Minister El-Keib announced plans to restore public order and security and to replace the Libya Shield brigade, which took control of the city in the aftermath of the siege and attack, with units from the Libyan army. A crisis management committee was set up within the Office of the Prime Minister to coordinate all Government activities related to Bani Walid. Despite calls for the establishment of a fact-finding committee to look into allegations of looting, the burning of homes and other human rights violations, no progress has been made on this issue. After some delay, attributed by local military authorities to a high level of insecurity, a United Nations delegation was able to enter the city in order to assess the humanitarian situation, provide some emergency assistance and encourage the return of the civilian population.

C. Eastern Libya

11. In Benghazi, the situation continued to be marred by an escalating series of security incidents reflecting deeply varying political and ideological perspectives on the future of the country. On 11 September, United States Government facilities were attacked by armed elements, resulting in the death of Ambassador Christopher Stevens and three other American personnel. The attack served as a potent reminder of the tense political and security dynamics in the city. Libyan officials and leaders from across the political spectrum were unequivocal in their condemnation, with the Government pledging cooperation with the United States of America in its investigation. Reflecting the public's anger against the attack and a desire for a return to stability in the city, some 30,000 demonstrators took part in the "Save Benghazi" rally on 21 September, calling for the police and military to assume their responsibilities as the sole, legitimate State security provider and for the dismantlement and integration of all armed groups. On 12 January there was an attack on the vehicle carrying the Italian consul, in which he was unharmed. The Government has since reiterated its plan to establish a special unit for diplomatic

security. A marked increase has been noted in the assassination of senior police and military officials in eastern Libya and of attacks against various State security facilities.

12. My Special Representative visited Benghazi on 29 November and met with the local council, civil society representatives and political parties, all of which underscored the need for comprehensive steps by the Government to address growing insecurity in the east as well as deep feelings of marginalization. They also called for immediate steps to decentralize Government services and for the election of a constitutional drafting body that takes into account the concerns of the east.

D. Security incidents

13. A number of attacks against places of worship, predominantly Sufi shrines, occurred during the reporting period. Four people were killed on 7 September in an exchange of fire between Salafists and local residents who had organized themselves to protect a Sufi shrine in the town of Rajma, east of Benghazi. The incident followed a spate of Salafist attacks in late August, targeting the historical Sheikh Abdul-Salam al-Asmar mausoleum in Zleiten, the Sidi Ahmed Zaroug tomb in Misrata and the Sidi al-Sha'ab shrine in Tripoli. These attacks elicited strong condemnation from the General National Congress, President El-Magariaf, Grand Mufti Al-Sadiq al-Gheriani, other senior officials, political leaders and civil society representatives. The United Nations Educational, Scientific and Cultural Organization deplored the attacks as constituting the destruction of the religious and cultural heritage of Libya.

14. On 30 December a bomb exploded at a Coptic church in Dafniya, near Misrata, killing two Egyptians and wounding two others. No group claimed responsibility for the attack. The Libyan authorities condemned the terrorist action and affirmed their commitment to identify the perpetrators and bring them to justice.

15. The security situation also remains problematic in the south. The head of the local council of Taragon was killed on 15 December. President El-Magariaf survived an assassination attempt during a visit to Sabha on 3 January.

E. Regional security concerns

16. The impact of the military intervention in northern Mali on stability in southern Libya and elsewhere has been highlighted by growing fears that a potential influx of rebels and other groups fleeing from Mali to Libya could render an already fragile security and political situation considerably more unstable. Those concerns have been further compounded by dissatisfaction among the population in the south regarding what they perceive as insufficient action by the central authorities to address demands relating to poor services, deteriorating security, cross-border crime and illegal migration. This dissatisfaction, along with a mass prison breakout in Sabha in early December, prompted a walkout by southern members of the General National Congress in protest at the failure of the authorities to address their concerns. My Deputy Special Representative led a joint United Nations country team/UNSMIL mission to the south to meet with local authorities and civil society to identify areas in which the United Nations could provide assistance. UNSMIL regularly engages with representatives of the Tabu and Tuareg communities on

issues affecting the south, including citizenship, political representation, communal tensions and border security problems.

17. In early December, Prime Minister Zeidan led a high-level delegation to Algeria, Chad, Niger and the Sudan to discuss border security and bilateral relations. The visit resulted in an agreement among Chad, Libya, Niger and the Sudan to form a joint security committee that would look into putting mechanisms in place to address issues related to border security. On 12 January, the Prime Minister met with his Algerian and Tunisian counterparts in Ghadames, who agreed to joint measures to combat organized crime and cross-border smuggling.

F. International assistance to Libya

18. On 17 December, a senior officials meeting was held in London, convened jointly by the Governments of Libya and the United Kingdom of Great Britain and Northern Ireland, with United Nations support and the participation of Denmark, France, Germany, Italy, Qatar, Turkey, the United Arab Emirates and the United States, as well as the European Union, to assist Libya in its efforts to strengthen the rule of law and reform its security sector. The participants endorsed the priorities set out by the Libyan authorities in the two areas, emphasized the importance of coordination both internally in Libya and among international partners and identified practical actions and specific international assistance needed to realize progress on those issues. A follow-up ministerial-level meeting was held on 12 February in Paris at which international partners reaffirmed their commitment to assist the Libyan Government in accordance with Libyan priorities.

G. Constitution-drafting process

19. Deliberations within the General National Congress over the constitution-drafting process formally began on 4 November, focusing entirely on the question of whether members of the constitution-drafting body were to be appointed by the General National Congress or elected in a national vote. Unable to reach consensus on this issue, on 26 December the General National Congress established a public outreach committee mandated to undertake a national consultative process. On 6 February the General National Congress passed a decision confirming that a constitution-drafting body would be elected and dissolving the public outreach committee.

20. The debate over the method for establishing the constitution-drafting body, to be composed of an equal number of representatives from each of Libya's three regions, has been particularly acute in eastern Libya, where demands have grown more vocal for its election. The issue has become entwined with the question of federalism, as calls for an elected body have emanated predominantly, although not exclusively, from those advocating a federal system, as well as those who are calling for the principles of local government or wide-ranging decentralization to be enshrined in the constitution. In view of the implications of any decision for the long-term stability of Libya, UNSMIL has consistently emphasized the importance of public awareness, the need for consultation, open debate and transparency to ensure that, whatever the final outcome of this particular question, the Libyan people trust and respect the constitution-drafting body and the constitution-making

process as a whole. In this regard, UNSMIL has provided the Libyan authorities with technical advice on the development of a media strategy aimed at enhancing outreach capacity for this purpose.

21. In the interim, the United Nations has been providing technical support and assistance to the General National Congress on a number of procedural and capacity issues, including support for initiatives to enable a participatory and effective consultation mechanism. UNSMIL led efforts to support women members of the General National Congress and raise awareness of women's political rights. Women members of the General National Congress and leaders of civil society organizations participated in United Nations-sponsored conferences in Egypt, Libya and Tunisia that focused on women's participation in elections and politics.

III. Activities of the United Nations Support Mission in Libya

A. Electoral support

22. Further to the decision by the General National Congress in early November to undertake a two-month national consultation on the mechanism for selecting members of the constitutional drafting body, UNSMIL is working closely with the General National Congress's constitution and legal committee, offering technical support and advice on selection criteria and on the subsequent working process. With the decision of the General National Congress on 6 February confirming that elections would be held for a constitution-drafting body, a new electoral law will be needed to provide the legal framework for conducting the election.

23. Following the publication of the General National Congress election results in August, the High National Election Commission began work on formally concluding the electoral process. This included the organization of lessons-learned sessions, both by its central administration office and at the regional level by its 13 district offices. Debriefing sessions were convened with national and international observation groups, as well as with stakeholders who played important roles in the electoral process, including representatives of civil society, political entities, the judiciary and the media. A final report detailing the outcome of those briefings, including proposals on the structure of the election management body for the remaining transitional period, was submitted to the General National Congress in early December for its consideration. The future mandate, form and structure of the election management body remain uncertain.

24. In the interim, the High National Election Commission has been considerably downsized, retaining only a skeleton staff in order to ensure the continuity of institutional knowledge and to provide the basis for rapid mobilization once clarity is achieved on the nature and timing of the next electoral event. In order to create an electronic voter register that can be used as a basis for future electoral events, the High National Election Commission took measures to digitize the voter register, with district offices collecting and sorting lists used in polling stations in the July national elections.

25. A lessons-learned exercise conducted by the United Nations Electoral Support Team found that maintaining standards of a credible and professional electoral administration would require sustained attention and effort. To that end, the

Electoral Support Team was downsized and restructured, with approximately 30 international advisers from various components of UNSMIL, the United Nations Development Programme (UNDP) and the United Nations Office for Project Services currently providing support to the electoral transitional process from their bases in Tripoli, Benghazi and Sabha. The advisers are embedded with the High National Election Commission staff, supporting their current activities and preparing a comprehensive capacity-building plan for the development of the future electoral management body. The team is also closely engaged with key decision makers and opinion makers in order to build knowledge and awareness on the establishment of sound electoral institutions and practices.

B. Human rights, transitional justice and the rule of law

26. The volatile security situation continued to represent a major challenge for the full resumption of the Libyan court system, with armed elements often cited by judges and prosecutors as a source of continuous threat. Following a number of attacks on courts, including the appeals court in the Green Mountain region and the office of the Chief Prosecutor in Benghazi, a number of senior judges threatened to suspend the work of the courts if their security were not guaranteed. In meetings with the Ministries of Justice, Interior and Defence, UNSMIL has continued to advocate for the adoption of a joint strategy to ensure that adequate security measures are put in place for the court system.

27. On 5 September, Mauritania extradited President Al-Qadhafi's former intelligence chief, Abdullah al-Senussi, to Libya. A Government statement in December indicated that legal proceedings against Saif al-Islam Qadhafi would commence within a month. Although its admissibility challenge before the International Criminal Court remains pending, the Government has insisted that it would try both men in Libya. On 17 January, however, Saif al-Islam Qadhafi appeared before the criminal court in Zintan on charges of undermining State security and attempting to escape from prison. The hearing did not include any charges related to the conflict.

28. The trials of the former chief of external intelligence, Abu Zayd Dorda, and of the former Prime Minister, Al-Baghdadi al-Mahmudi, remain under way. Legal proceedings against the former Chair of the National Transitional Council, Mustafa Abdul Jalil, commenced in December in relation to the investigation into the killing of the former chief of staff of the revolutionary armed forces, General Abdel-Fattah Younes. The actions of the military prosecution in Benghazi, perceived to have been unfair and disrespectful of Mr. Abdul Jalil, triggered angry protests across Libya. The issue also highlighted the ongoing debate regarding the jurisdiction of the military justice system over civilians.

29. The provision of technical and advisory support to the public prosecution service continued as a main pillar of the Mission's intervention aimed at enhancing judicial functions and reinforcing transitional justice mechanisms. Technical support has also been offered to the judicial police as part of ongoing efforts to improve penitentiary administration. With regard to the screening and processing of detainees, UNSMIL has also provided the chief prosecutor in Misrata with technical assistance on ways of accelerating and generating momentum on the issue.

30. The lack of a judicial process for the thousands of detainees who remain in custody continues to represent a serious human rights issue. Concerns also remain about acts of revenge against detainees who were accused of perpetrating sexual violence during the conflict. While there has been some progress in the screening of detainees, there was no significant decrease in the number of conflict-related detentions. Similarly, while there has been a slight increase in the number of detainees transferred to State authority, up to 4,700 out of an estimated total of 7,000 armed brigades continue to exercise variable degrees of influence over a number of prisons operated by the judicial police, rendering detainees vulnerable to mistreatment. Violations of human rights continued to be reported in detention centres controlled by the revolutionary brigades, with several deaths recorded over the reporting period.

31. During the conflict in Bani Walid in October, human rights violations and other abuses, including indiscriminate shelling, arbitrary arrests and detentions, looting, burning of homes and the mistreatment of prisoners in custody, were perpetrated. UNSMIL also documented violations by Bani Walid fighters, including the kidnapping and illegal detention of at least 10 men from Misrata, Tajoura, Souq al-Jum'a and Zleiten. Following the end of hostilities, hundreds of detainees from Bani Walid remained, without due process, in detention centres in Tripoli, Misrata, Tarhouna, Gheryan and Al-Zawiyah.

32. Following discussions with officials and representatives of civil society organizations on reforming the transitional justice law (No. 17/2012), adopted by the National Transitional Council last year, UNSMIL issued a public report with a set of recommendations underlining the importance of representing all those concerned in the Fact-Finding and Reconciliation Commission and instituting a dynamic approach to truth-seeking. The Ministry of Justice incorporated many of these recommendations in the new draft transitional justice law it submitted in December for consideration by the General National Congress.

33. Further to UNSMIL initiatives earlier in the year to stimulate public dialogue on transitional justice in Libya, the Mission co-organized a conference on the theme "Truth-seeking and reconciliation: the way forward", held jointly with the Fact-Finding and Reconciliation Commission, the human rights committee of the General National Congress and UNDP. Experts from Peru, South Africa and Tunisia were invited to share the experiences of their respective countries on issues of truth-seeking and reconciliation. Conference participants urged Libyan authorities to display the requisite political will to pursue transitional justice and called for a genuine political dialogue as a first step towards national reconciliation.

34. As part of its human rights capacity-building mandate, UNSMIL is working closely with the human rights committee of the General National Congress, focusing in particular on the obligations of Libya under international human rights treaties. The committee's discussions in December concerning the possible ratification of the Convention on the Rights of Persons with Disabilities is an encouraging step in this regard. UNSMIL is also continuing to provide basic training in human rights monitoring and documentation to activists across the country.

35. Differences have emerged over plans to reform and reorganize the judicial system. At a workshop organized by UNSMIL and the High Judiciary Institute in November, participants underscored the need to address judicial reform challenges in line with international human rights and rule of law standards.

36. In a positive development demonstrating the increasing role of the Supreme Court as a guardian of public liberties and the rule of law, the Court annulled, on 23 December, article 2 of the law abolishing the People's Court on the grounds that it violated the Constitutional Declaration. The article in question granted the public prosecutor the authority to extend the detention of members of the former regime. The Supreme Court declared that the application of exceptional proceedings, effectively limiting its oversight, violated the principle of equality among Libyan citizens and had an adverse impact on public liberties.

37. The near-total absence of services for survivors of sexual violence presents a significant challenge. It is worth noting, however, that the Ministry of Social Affairs formed a working group in October to look into the issue. In a related move, the Ministry, with support from the United Nations Population Fund, in September inaugurated a national multi-sectoral working group on gender-based violence. The initiative reflects a shift in public awareness on issues related to gender-based violence, as well as a modest expansion of political will to address them.

C. Security sector

38. The security situation remains precarious and continues to be the predominant concern for the Libyan authorities and people. The need to restore security to enable effective governance, establish democratic institutions and promote national development has been reiterated in numerous statements of the General National Congress and the Government, as well as civil society. The Government has identified a number of national security priorities, including the need to enhance border security in the south, resolve security problems in Benghazi and integrate revolutionary fighters into the security forces or reintegrate them into civilian life. Central to the Government's ability to address these challenges in the immediate and longer term is the establishment of proper national security coordination mechanisms and the effective reform and development of the Libyan Armed Forces and the Libyan Police Service and the development of capable institutions responsible for their democratic management, accountability and oversight.

39. Building an effective national defence force has proven to be a difficult endeavour, given issues of marginalization and operational deficiencies during the four decades of the Qadhafi regime. The establishment of a "new", professional and apolitical defence force is a key requirement for internal and border security and for progress to be made on disarmament, demobilization and reintegration initiatives.

40. In order to ensure the provision of coherent United Nations support to Libyan efforts in the area of security, a "One United Nations" security sector approach has been implemented, drawing on the resources of both UNSMIL and the United Nations country team. In accordance with Security Council resolution 2040 (2012) and the principle of national ownership, the structure is aimed at supporting the development of an effective, accountable and affordable Libyan security sector that respects human rights, upholds the rule of law, is responsive to women and vulnerable groups and has the confidence of the Libyan people.

1. Security sector architecture and coordination

41. During the reporting period, Libyan authorities began to consider the development of appropriate capacities in the areas of security sector architecture and coordination. With the support of UNSMIL, the Government articulated immediate and longer-term national priorities for security sector reform, transitional justice and the rule of law, for the development of terms of reference of a national security council and for General National Congress committees on national security, defence and police. By outlining its priorities in those areas, the Government intends to ensure that the international community allocates its support to areas with the greatest need for security, as defined by Libya.

2. Disarmament, demobilization and reintegration

42. Despite the high priority the Government has accorded to disarmament, demobilization and reintegration, actual progress has been slow. Uncertainty regarding many programmes devised by the Warriors' Affairs Commission for Rehabilitation and Development still remains. A programme of limited disarmament commenced under the auspices of the Office of the Chief of General Staff, but results were modest, and there was no clear understanding of control and/or destruction arrangements for returned weapons and ammunition.

43. Because of the lack of operational capability in the defence and police forces, revolutionary brigades have continued to play a key role in providing security, including by performing specific duties mandated by the Government. Groups of revolutionary fighters have joined the semi-official military and security structures, such as Libya Shield, the National Mobile Force and the Supreme Security Committee, while some have returned to civilian life. Notwithstanding progress by the Ministries of Defence and Interior to integrate these revolutionary fighters or reintegrate them into civilian life, a considerable number of revolutionary fighters are not willing to surrender their weapons to State authorities and be absorbed into official State security structures or resume civilian life. Progress in the identification of employment opportunities and social and medical support for these fighters is essential.

44. UNSMIL continued to work with the World Health Organization to provide psychosocial training programmes in support of revolutionary fighters suffering from post-traumatic stress disorder.

3. Border security

45. The management of porous borders and the lack of sufficient border control mechanisms continue to be of major concern to Libya and its neighbours. These concerns were reflected in the decision by the General National Congress of 16 December to close the country's borders with Algeria, Chad, the Niger and the Sudan and to declare the southern regions of the country closed military zones.

46. During the reporting period, the Mission continued to work closely with the European Union, emphasizing the need for timely international support in the areas of border security and border management and for such support to be provided in a coherent and complementary manner. The European Union established a working group on border security and management to coordinate international support, in which the United Nations is participating. In this regard, the European Union is

planning to deploy a common security and defence policy mission on border security to Libya by mid-2013.

4. Arms and ammunition management

47. Unsecured ammunition, explosive remnants of war and stockpiled weapons, including small arms, light and chemical weapons and materiel, continue to pose a serious risk to the Libyan people and to regional security. Libya has submitted a detailed plan for the destruction of the remaining chemical weapons stock with a new planned completion date of December 2016. Destruction operations are planned to resume in March 2013.

48. With respect to the illicit proliferation of arms and related materiel, UNSMIL, with involvement from the United Nations Children's Fund (UNICEF), continued to be active in training on ammunition management, search awareness and explosive ordnance disposal with the Ministries of Defence and Interior. UNSMIL coordinated operations, monitored and advised on the accounting, safe storage and control of arms and ammunition, the clearance of explosive remnants of war and the registration of weapons. Along with the armed forces, military councils and some local revolutionary brigades, UNSMIL supported Libyan-led ammunition and weapons management initiatives and identified potential new projects.

49. UNSMIL, under the coordination of the Mine Action Service of the Department of Peacekeeping Operations, cleared 204,075 items of explosive remnants of war and unexploded ordnance covering 11,134 m² of agricultural lands and military defence areas. While the results are notable, contamination remains high and clearance assets were reduced because of financial constraints.

50. Progress was made during the reporting period in raising awareness of the risk of mines and explosive remnants of war in Libya. The Ministry of Education, in partnership with UNICEF, established a coordination mechanism to ensure quality coverage of explosive remnants of war and mine risk education in all relevant areas of the country. This has benefited some 190 teachers, who now have better knowledge about mine risk education and have acquired risk-reduction teaching skills. More than 650,000 children and adolescents have been educated on the risks of mines and unexploded ordnance as a result of the full placement of a full-page message on mine risk education on the back covers of primary school textbooks.

51. Through Libyan risk education, supported by UNICEF, advocacy and information campaigns on the dangers of unsecured arms and ammunition have reached more than 19,655 people; a number of revolutionary brigades and civilians have voluntarily handed in ammunition for disposal. To facilitate the quantification of this threat and possible responses thereto, UNSMIL has begun developing a weapons and ammunition database in cooperation with national stakeholders.

52. UNSMIL continues to work with the Office of the Prime Minister on a structure delineating roles and responsibilities in the area of arms and ammunition management. The Mission is supporting this process by coordinating the international working group on arms and ammunition management, an information-sharing and advisory forum for Libyan authorities. Pending decisions on sector funding proposals, shortfalls amounting to \$21 million for 2013 alone are expected to hamper the overall scope of support that can be provided. My Special

Representative has reached out to potential donors in the hope that the needed funds will be made available in the coming months.

53. Finally, UNSMIL has cooperated with the Panel of Experts on Libya, in accordance with paragraphs 11 and 12 of resolution 2040 (2012).

5. Ministry of Defence and the Libyan Armed Forces

54. During the reporting period, the Government of Libya took some important decisions and actions towards rebuilding the defence sector. In December, the entity responsible for guarding the borders, petroleum facilities and critical infrastructure was formally placed under the authority of the Ministry of Defence and the command of the Chief of General Staff. Efforts are being made to exercise greater command and control over the existing semi-official security structures of the revolutionary forces, with the first individual elements receiving condensed basic training before deploying to bolster the regular army.

55. With UNSMIL support, the Government has made significant progress towards developing a defence white paper outlining a national strategy. Extensive consultations were held across the country with relevant Government, military and civilian actors, as well as with revolutionary fighters. The exercise has helped to integrate previously disparate elements of defence sector needs and priorities and provided the authorities an opportunity to consult with wider Libyan society.

56. Related to the defence white paper project, UNSMIL assisted in two important Libyan Armed Forces activities: a workshop in October that considered critical issues of the size and structure of the army, higher defence relationships and securing the border, followed in November by a three-day workshop on a new and smarter army.

57. While Libya develops its long-term strategy, UNSMIL is also assisting the Ministry of Defence and the Office of the Chief of General Staff to identify and implement immediate practical initiatives. UNSMIL is facilitating the provision of embedded experts in military education and training, personnel and pension reform, defence legislation and regulations and communications strategy. In those areas, UNSMIL is working collaboratively with key national interlocutors and international supporters, notably through the international defence working group, which meets on a monthly basis to enhance international coordination for defence sector reform.

6. Ministry of Interior and police

58. Following his appointment on 11 December, the new Interior Minister moved quickly to outline plans for the work of the Ministry. These entail reforming and restructuring the Ministry; establishing a vetting mechanism aimed at instilling public confidence in the police; reactivating the police, including visibly displaying the force in cities and towns; and gradually integrating the Supreme Security Committee into the Ministry of Interior. In consultation with existing security forces and structures, the Minister proceeded to establish a central committee for integration. By mid-January, more than 20,000 revolutionary fighters had enlisted in the Ministry, with training programmes under way. The figure is likely to increase as the integration programme progresses further.

59. UNSMIL is working closely with the Ministry of Interior and the Central Committee for Integration, offering technical advice on a range of issues, including demobilization and reintegration, the design of a training curriculum and the transfer of weapons and prisons to State control.

60. UNSMIL also continued to work closely with the Ministry of Interior and the General National Congress to develop strategic priorities for police reform, including national security policies, legal frameworks, the organizational structure and the budget. UNSMIL also supported efforts to build operational policing capacity and enhance coordination, with particular emphasis on professionalism, accountability, accessibility and respect for human rights.

61. On the basis of Ministry of Interior priorities, UNSMIL facilitated an international instructor development programme, drafted plans for an integrated strategic planning system and supported efforts to identify Libyan needs, priorities and support requirements to strengthen operational policing, including criminal investigation, forensics, anti-narcotics activities and public order capabilities.

D. Socioeconomic recovery

62. Economic growth due to the rapid restoration of hydrocarbon production supported the recovery of economic activity in many areas and allowed an enlargement of the State budget. In 2012, spending on wages and subsidies was projected by the International Monetary Fund (IMF) to have increased to 30 per cent of gross domestic product. Although Libya can afford these elevated levels of expenditure in a transitional period, the increase in wages and subsidies is eroding fiscal buffers and undermining longer-term prospects for fiscal sustainability. The high level of subsidies affects consumption and production, as well as the allocation of resources, with negative implications for the State budget and private sector development.

63. An IMF mission to Libya in December highlighted the fact that increased private sector employment needs to be underpinned by efforts to strengthen the educational system and improve skills. An efficient and comprehensive social safety net would ease transitory pressures and encourage risk-taking, thereby encouraging competition within the workforce and allowing rationalization of the civil service.

E. Coordination of international assistance

64. At the request of Libyan counterparts, UNSMIL continues to exercise a strong leadership role with regard to the coordination of international assistance, which was highlighted during meetings held in London on 17 December and in Paris on 12 February. This includes a focus on the security and defence sectors as well as on the rule of law and transitional justice. UNSMIL has also taken the lead in efforts to support the constitution-drafting process.

65. During the reporting period, the United Nations country team strategic framework for 2013-2014 was finalized. It focuses on the six development sectors that have been identified by the Government as priorities, namely, social services; economic recovery; public administration and governance; transitional justice; human rights and rule of law; culture and tourism; and infrastructure and housing.

Those priority sectors are linked to the recently established "Government/ international partners coordination architecture", which is led by the Ministry of Planning.

66. Working closely with the Ministry of Planning and line ministries, the United Nations undertook a comprehensive review of existing coordination mechanisms, a year after their establishment. The exercise was held with the aim of better supporting the development of national strategies. As part of this initiative, consultations were held with international partners currently providing technical support and capacity development to Libyan institutions. The outcome of the assessment should lead to a restructuring and strengthening of the coordination mechanisms between the Government and international partners.

67. The United Nations currently has 11 issue-specific groups that bring together, in addition to various UNSMIL sections and country team agencies, partners from the international community and, in some cases, representatives of civil society. These flexible structures will have to be strengthened so that exchange of information becomes regular, duplication is avoided and effective coordination is secured.

F. Humanitarian situation

68. More than 90,000 persons were displaced in 2012 because of ethnic or tribal tensions or as a direct result of military conflict, such as that which occurred in Bani Walid and the Nafusa Mountains. The majority were displaced on only a short-term or temporary basis. By the end of 2012, the total number of internally displaced persons, primarily from the Mashashiya, Tawergha and Tuareg communities, many of whom continue to face obstacles in returning to their homes, was estimated to be more than 65,000. Initiatives aimed at promoting reconciliation between communities and addressing long-standing issues are being developed as durable solutions to an array of issues linked to internal displacement.

69. In the absence of a comprehensive legal framework governing their presence in Libya, irregular migrants, refugees and potential asylum seekers continued to be at risk of arrest, detention, deportation and exploitation. While the Ministry of Interior has made some progress in asserting control over some migrant detention facilities, problems of overcrowding, food and water scarcity and poor sanitation remain serious challenges.

70. More than 8,000 people, including potential asylum seekers, children and pregnant women, are estimated to have attempted the dangerous sea crossing from Libya to Europe in 2012.

71. Developments in the Syrian Arab Republic have led to a continuing influx of Syrian refugees into Libya, primarily across the Egyptian border. In recent months, international organizations have intensified efforts to register Syrian refugees in coordination with local authorities, with more than 3,800 persons registered to date in Tripoli, Misrata, Benghazi and other locations. Relief items, as well as assistance in accessing health, education and social services, have been made available to vulnerable Syrian families by international humanitarian agencies.

72. As a result of the local conflict in Bani Walid in October, an estimated 60,000 people were displaced to Tarhouna, Al-Orban and Nisma, in addition to other towns

in western Libya. The majority have since returned to their homes. The United Nations has worked closely with the Libyan Humanitarian Relief Agency, the Libyan Red Crescent and civil society organizations to monitor the situation inside Bani Walid and provide humanitarian assistance. Advisory and technical support on the crisis management and coordination of the humanitarian response was also provided by the United Nations to the Government's crisis management committee established within the Office of the Prime Minister to oversee the return of residents and recovery efforts.

IV. Deployment of the United Nations Support Mission in Libya

73. As at 1 January 2013, a total of 205 UNSMIL international staff, Government-provided personnel and national staff members had been deployed, comprising 175 in Tripoli, 14 in Benghazi, 3 in Sabha, 1 in New York and 12 at the Global Service Centre in Brindisi, Italy.

V. Staff safety and security

74. The United Nations continued to operate effectively throughout Libya in the second half of 2012 despite a deteriorating security situation. Attacks against the international community, including the United Nations, mainly in the east, intensified beginning in April. Following the attack on the United States Government facilities in Benghazi on 11 September, and given the fracturing of State security actors in the city and significant problems with control, United Nations international staff based there were temporarily relocated to Tripoli. UNSMIL may redeploy a smaller core group of staff to Benghazi when the security situation improves.

75. On 10 December an UNSMIL convoy came under small arms fire outside the city of Al-Khoms. The incident is believed to be a random criminal act rather than a case of deliberate targeting of the United Nations. On 29 January, two pipe bombs were thrown into a facility previously proposed to house the UNSMIL headquarters in Tripoli. One of the bombs exploded, causing minor damage but no injuries. Libyan police are investigating the incident.

76. In view of the steadily changing environment in Libya, the integrated approach to the safety and security of United Nations personnel has been further refined during the reporting period. Efforts have been intensified to protect United Nations personnel, particularly in the east, but also in Tripoli with respect to office and accommodation arrangements. This is seen as essential in enabling United Nations operations to continue despite a complex security environment.

VI. Financial aspects

77. By its resolution 66/263, the General Assembly approved an amount of \$36,039,100 for UNSMIL for 2012. Further, by its resolution 67/246, the Assembly approved an additional amount of \$50,637,200 for 2013, bringing the total resources for UNSMIL for the biennium 2012-2013 to \$86,676,300.

VII. Observations and recommendations

78. Libya continues to achieve progress in its democratic transition. The swearing-in of the country's first democratically constituted Government marks yet another milestone in this process. It comes in response to a popular demand for an inclusive and functioning Government capable of engaging in State-building. The transparency and openness with which the new Government was formed bears witness to the political will of the General National Congress, and of political groups and leaders, to break with the past and foster Libya's political transformation in accordance with democratic norms. Prime Minister Ali Zeidan, along with his National Unity Government, deserve praise for their commitment to work decisively towards meeting the basic aspirations of the Libyan people.

79. While the formation of the Government is a welcome political development, a concerted effort is needed to address the numerous challenges facing Libya. Seven months after the historic elections of 7 July 2012, the Libyan people expect, and have started to demand, more of their elected authorities with regard to the provision of security, institution-building and service delivery. It is therefore critical that the General National Congress and the Government work in a cooperative manner, within their respective competencies, in conformity with the principle of the separation of legislative and executive powers. In all of these areas, a sustained and focused effort to support institution-building is required.

80. I am encouraged by the determination of the new Government to move forward expeditiously towards improving the precarious security situation and addressing urgent problems pertaining to the proliferation of weapons and the continued presence of armed groups outside the legitimate control of the State. In particular, I welcome the plans recently announced by the Government to integrate revolutionary fighters into State military and security institutions. Further progress with respect to security, however, will ultimately depend upon the State's ability to radically reform, modernize and rebuild its military and security institutions and structures, which have suffered for decades from partisanship, instability, disorganization, corruption and nepotism. Progress on these fronts will ensure that Libya continues to make headway towards building a modern, democratic and accountable State, based on the rule of law and respect for human rights.

81. There remain significant challenges associated with the clearance of explosive remnants of war and the accounting, safe storage and control of weapons throughout Libya. While progress has been made in these areas, much remains to be done. I urge Member States to consider committing support to ensure continuation of these critical activities.

82. I am encouraged by Libya's decision to foster regional cooperation on security issues. In this respect, many of the problems faced in Libya are intertwined with those of its neighbours. International assistance to Libya needs to include specific support for recent actions by the Libyan authorities aimed at strengthening joint efforts to enhance border security. My Special Envoy for the Sahel, Romano Prodi, is working on a comprehensive strategy for the Sahel that would address cross-border security concerns, among other issues.

83. At the current juncture in Libya's political transition, the need to reach consensus based on broad and inclusive consultations is crucial to ensure the success of the Libyan authorities in their efforts to address priority issues. In view

of the fragile security situation, and prior to the adoption of the new constitution, it is important to initiate an inclusive, national dialogue. Such a process would allow the different actors, whether political, communal or from civil society organizations, to build consensus on guiding principles and priorities until a new constitution is adopted.

84. I commend the decision of the General National Congress to move ahead with the election of a body to draft the constitution. The decision is an important milestone that paves the way for continued progress towards a constitution that reflects the needs, priorities and aspirations of the Libyan people. In this regard, I encourage the General National Congress to move expeditiously towards adopting the legal framework necessary for a free, fair and inclusive election. I also call upon relevant Libyan authorities to ensure the widest possible popular consensus on constitutional principles and adherence to the norms of a democratic and constitutional State.

85. In conjunction with national dialogue, reconciliation efforts should neither be understated nor considered premature. Reconciliation involves confronting the past, dealing with the legacy of the former regime, enhancing transitional justice and refraining from collective punishment and revenge. In this regard, I strongly encourage truth-seeking and reconciliation initiatives. I commend the legislative efforts to this effect, and call upon all concerned to harmonize a transitional justice law and other relevant laws with international standards. In both truth-seeking efforts and judiciary processes, it is essential that the expectations of the victims be adequately met.

86. The continued detention without due process and the mistreatment of many thousands of persons remain a source of deep concern. While there has been some progress in the screening and processing of detainees, the effort has remained limited in scope. All detainees should be transferred to centres under the authority of the State, and the Libyan authorities should accelerate the judicial process. Measures must be taken to ensure that detainees are accorded fair trials in conformity with international rule of law standards. In this regard, I urge the authorities to take all the necessary measures to empower the judicial system, including the provision of adequate security conditions for judges and prosecutors. I also urge the authorities to make concerted efforts to develop a legal framework to address the issue of irregular migrants, refugees and potential asylum seekers in accordance with international humanitarian law.

87. As Libya continues to address the challenges of its transition, the United Nations will continue to offer its full support and assistance in accordance with the principles of national ownership. To that end, I recommend that the Security Council renew the mandate of UNSMIL for another 12 months as an integrated special political mission in the areas provided for by the Security Council in resolutions 2009 (2011), 2022 (2011) and 2040 (2012). Taking into account the priorities of the Government, UNSMIL and the wider United Nations system will increase their efforts to support those priorities and refocus their work to adequately address them, including, but not limited to, the constitution-making process, inclusive national dialogue and improving institutional capacity in the areas of defence sector reform, transitional justice and the rule of law. In close partnership and coordination with the international community, the United Nations will continue to make available resources and expertise in support of these national priorities.

88. In closing, I reiterate the commitment of the United Nations to fully support the Libyan people in their democratic transition. I commend the Libyan authorities and people for their accomplishments to date and I thank them for their close cooperation and collaboration with the United Nations. I also thank all those international partners, regional organizations and others who have supported the Libyan people in their efforts to secure peace and stability. Finally, I wish to extend my sincere thanks to the staff of UNSMIL and the United Nations system for their efforts to support Libya's transition. I commend my Special Representative, Tarek Mitri, for the strong leadership he has demonstrated following his appointment.

**General Assembly
Security Council**

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General Assembly
Sixty-seventh session
Agenda item 105
Measures to eliminate international terrorism

Security Council
Sixty-eighth year

**Identical letters dated 21 February 2013 from the Permanent
Representative of the Syrian Arab Republic to the United Nations
addressed to the Secretary-General and the President of the
Security Council**

On instructions from the Government of the Syrian Arab Republic, I should like to draw your attention to the following information:

Today, Damascus was hit by a series of terrorist bombings, the most devastating of which occurred in Thawrah Street, on the outskirts of the Mazra'ah residential quarter. Preliminary estimates indicate that 53 civilians were killed and hundreds injured in the attack. The victims included children and students, some of whom are in critical condition. The terrorist bombing caused substantial damage to Hayat Hospital and its medical equipment and Abdullah bin Zubayr School, and burned many cars and other vehicles. At that same location, the competent authorities stopped a car that was carrying containers packed with tons of explosives, and arrested the would-be suicide bomber who was driving it.

Those attacks coincided with others in which mortar shells were fired at several residential buildings, causing material damage. Yesterday, the terrorist groups once again attacked Syria's athletes, firing two mortar shells at Tishrin Sports City. One shell struck Tishrin Stadium, while the other exploded near Tishrin Hotel, which is used for housing athletes. Football player Yusuf Sulayman was killed and several other players and staff were injured as they were preparing for a domestic league match.

These cowardly terrorist attacks, which targeted crowded residential areas and major intersections in the capital, Damascus, were the latest in a series of attacks that have taken place in Damascus and several Syrian governorates. They were carried out by armed terrorist groups affiliated with Al-Qaida that are receiving financial and logistical support and political and media cover from States in the region and outside it. The actions of those States are contrary to their obligations under international law and United Nations resolutions concerning counter-terrorism.



The credibility of the counter-terrorism campaign, which has always been a concern of the international community and the focus of much effort on its part, is facing an unprecedented test. Terrorism in its most savage form is striking Syrian civilians, without mercy and indiscriminately, heedless of whether its victims are the elderly, children or students. In its previous letters addressed to the Security Council and the Secretary-General, Syria called on Member States to condemn strongly and unequivocally these savage terrorist crimes and to hold accountable and restrain those States that are supporting the terrorists, regardless of the form such support may take.

The Syrian Arab Republic hopes that, on this occasion, the Security Council will be able to take a resolute stance that affirms its commitment to countering terrorism, regardless of where or when it occurs. By condemning in clear terms this terrorist attack, the Security Council would send a stern message to the terrorist groups and those who support them that no double standards are applied with regard to terrorist crimes, regardless of where they are committed. Should the Council yet again overlook such an act of terrorism, it would confirm suspicions that it is not serious about countering terrorism and implementing its resolutions in that regard. That would also be construed as providing political cover for these terrorist crimes.

The credibility of the international community is at stake. Failure to condemn these acts of terrorism would be unjustifiable, from both a moral and humanitarian perspective, and would be tantamount to ignoring the suffering of the Syrian victims of terrorism and their families. It would only provide fresh evidence that double standards are part and parcel of the Council's approach to international terrorism, and would confirm once again the extent to which certain regional and international parties are complicit in the systematic terrorism that is being directed against the Syrian State and people.

Syria affirms that these terrorist murderers will not deter it from protecting its citizens. It will continue to fight terrorism, even as it implements its political programme to resolve the crisis, because this programme, which is based on dialogue among Syrians, is the best way of resolving the crisis.

I should be grateful if this letter could be circulated as a document of the General Assembly, under agenda item 105, and of the Security Council.

(Signed) Bashar Ja'afari
Ambassador
Permanent Representative

**General Assembly
Security Council**

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General Assembly
Sixty-seventh session
Agenda items 34, 39, 65, 67, 69, 83 and 84

Security Council
Sixty-eighth year

**Protracted conflicts in the GUAM area and their
implications for international peace, security
and development**

The situation in the occupied territories of Azerbaijan

Promotion and protection of the rights of children

**Elimination of racism, racial discrimination, xenophobia
and related intolerance**

Promotion and protection of human rights

The rule of law at the national and international levels

**The scope and application of the principle of
universal jurisdiction**

**Letter dated 21 February 2013 from the Permanent Representative
of Azerbaijan to the United Nations addressed to the
Secretary-General**

As you are aware, the most serious international crimes, such as war crimes, crimes against humanity and genocide, have been committed in the course of the ongoing aggression of the Republic of Armenia against the Republic of Azerbaijan. Twenty-one years ago, an unprecedented massacre was committed against the Azerbaijani population in the town of Khojaly. On the night of 25 to 26 February 1992, the armed forces of Armenia, with the support of irregular armed bands and terrorist groups, as well as with the direct participation of the infantry guards regiment No. 366 of the former Union of Soviet Socialist Republics, implemented the seizure of Khojaly. In one night, more than 600 civilians were killed in that town, only because they were Azerbaijanis. Not even women, children and elderly were spared by the invading forces.

I have the honour to submit to you a memorandum entitled "The crime in Khojaly: perpetrators, qualification and responsibility under international law". Having submitted this memorandum, the Government of the Republic of Azerbaijan requests the Secretary-General and the States Members of the United Nations to



support national efforts aimed at putting an end to impunity for the serious crimes committed in the course of the aggression of the Republic of Armenia against the Republic of Azerbaijan.

It is obvious that impunity still enjoyed by the perpetrators of the crimes continues to impede progress in achieving the long-awaited peace and reconciliation between Armenia and Azerbaijan. Therefore, the establishment of truth in respect to the serious violations of international humanitarian and human rights law committed during the conflict, the provision of adequate and effective reparations to victims and the need for institutional actions to prevent the repetition of such violations are all necessary adjuncts to true conflict resolution. Consequently, ending impunity is essential not only for the purposes of identifying responsibility of parties to the conflict and individual perpetrators, the achievement of which is undoubtedly imperative per se, but also for ensuring sustainable peace, truth, reconciliation, the rights and interests of victims and the well-being of society at large.

The attached memorandum should also be considered as a response to the lying interpretation of the tragic events that took place in the town of Khojaly by the representatives of Armenia during the open debate of the Security Council on the protection of civilians in armed conflict, held on 12 February 2012 (S/PV.6917 (Resumption 1)).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under the agenda items 34, 39, 65, 67, 69, 83 and 84, and of the Security Council.

(Signed) Agshin Mehdiyev
Ambassador
Permanent Representative

Annex to the letter dated 21 February 2013 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

The crime in Khojaly: perpetrators, qualification and responsibility under international law

Introduction

1. At the end of 1987, the Soviet Socialist Republic of Armenia openly laid claim to the territory of the Nagorno-Karabakh (Daghlyq Garabagh) Autonomous Oblast of the Soviet Socialist Republic of Azerbaijan. Contrary to the Constitution of the Soviet Union, which guaranteed the territorial integrity and inviolability of borders of the Union Republics, both the Armenian Soviet Socialist Republic and members of the Armenian community of the territory adopted a number of decisions to institute the process of unilateral secession of the autonomous region from Azerbaijan. At the end of 1991 and the beginning of 1992, Armenia initiated combat operations on the territory of Azerbaijan. As a result, a significant part of the territory of Azerbaijan, including the Daghlyq Garabagh region and seven adjacent districts, was occupied by Armenia.

2. In 1993 the United Nations Security Council adopted a series of four resolutions condemning the use of force against Azerbaijan and the occupation of its territories by Armenian forces, reaffirming respect for the sovereignty, territorial integrity and inviolability of the international borders of Azerbaijan, confirming that Daghlyq Garabagh is part of Azerbaijan and demanding the immediate, full and unconditional withdrawal of the occupying forces from all its territories.¹ The same position has been adopted by other international organizations.

3. The war led to the deaths and wounding of thousands of people, while hundreds of thousands became refugees and were forcibly displaced and several thousand disappeared without trace. The capture of Khojaly was particularly tragic. Before the conflict, 7,000 people lived in this town of the Daghlyq Garabagh region of Azerbaijan. From October 1991, the town was entirely surrounded by the Armenian forces. Over the night of the 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the assault on the town began from various directions. The attack and capture of the town involved the extermination of hundreds of Azerbaijanis, including women, children and the elderly, and thousands of civilians were wounded and taken hostage, many of whom remain missing, while the town was razed to the ground.

Perpetrators of the crime

4. There have been numerous instances of States disguising their role in the forcible capture of the territory of another State and of denying the crimes committed in that territory. These features are evidenced in the policies and practices followed by Armenia. It denies both involvement with the armed conflict, along with the fact that it has anything to do with controlling these territories, and

¹ Resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993).

the fact of occupation within the meaning of international law. Thus, according to the incumbent President of Armenia, Serzh Sargsyan, "only volunteers fought for Nagorno-Karabakh". At the same time, Armenia, in his words, acted as "a guarantor of the security of Nagorno-Karabakh", prepared to intervene immediately in the event of the outbreak of new war.² The question of Armenia providing guarantees is also mentioned in the country's national security strategy of 7 February 2007.³ No explanation is provided, however, as to how these guarantees, which affect a portion of Azerbaijan's territory, fit into international law.

5. Generally speaking, attempts by Armenia to disguise its aggression against a neighbouring State and thereby to assert its innocence for crimes committed in the course of this aggression are unlikely to be taken seriously, given the incontrovertible evidence testifying to the diametrically opposite situation. In addition to the facts at the disposal of the Government of Azerbaijan attesting to the direct involvement of the Armenian armed forces in the military hostilities against Azerbaijan and the presence of these forces in the occupied territories, issues that merit a separate and careful investigation, the assessment of Armenia's role given by other States, international organizations and independent observers is also completely unequivocal.

6. Thus, the report by the Human Rights Watch/Helsinki entitled *Seven Years of Conflict in Nagorno-Karabakh* made it clear that "while there are probably volunteers to the rebel forces from among the Republic of Armenia population, active duty members of the Armenian armed forces, including conscripts, have been ordered by their military commanders to participate in hostilities in Azerbaijan against Azerbaijani armed forces".⁴ The report concluded by stating that "as a matter of law, Armenian troop involvement in Azerbaijan makes Armenia a party to the conflict and makes the war an international armed conflict, as between the Government of Armenia and Azerbaijan".⁵

7. Apart from the denial of its responsibility for the occupation of and military presence in the territories of Azerbaijan, official Yerevan spares no efforts in representing matters with regard to the massacre in Khojaly as if it were the Azerbaijanis themselves who allegedly obstructed the evacuation of the civilian population from the area of military hostilities and, even worse, gunned down their own fellow countrymen in order to exploit the large numbers of civilian casualties for their own internal political ends.⁶ Thus, in their statements at the United Nations Security Council on 12 February 2013, the representatives of Armenia once again referred to the then President of Azerbaijan, Ayaz Mutalibov, who allegedly made the opposition Popular Front of Azerbaijan responsible for the slaughter of the civilians of the city of Khojaly.⁷ However, the Armenian propaganda fails to recall that the former President of Azerbaijan has consistently protested against such a blatant misinterpretation of his words. In his interviews and comments, which the Armenian propaganda prefers not to mention at all, Mr. Mutalibov has repeatedly stated that the perpetrators of the massacre in Khojaly were the Armenians and that

² "Caucasus Context 2007", vol. 4, issue 1, pp. 43-44. See also the message by Serzh Sargsyan of 1 September 2007, "Hayinfo" website.

³ Available from www.mil.am/eng/?page=49.

⁴ Human Rights Watch/Helsinki, *Seven Years of Conflict in Nagorno-Karabakh*, p. 92 (1994).

⁵ Ibid., p. 73. See also A/66/787-S/2012/289, annex, paras. 15-27.

⁶ See A/66/708-S/2012/117.

⁷ See S/PV.6917 (Resumption 1), pp. 43 and 70.

he has never attributed the guilt for the commission of that crime to the Popular Front of Azerbaijan. According to Mr. Mutalibov, "references to [his] words that the Popular Front organized the fall of Khojaly or conducted to it are outrageous lie and absurd".⁸

8. There are more than sufficient facts and reports from various sources, including eyewitnesses of the events, Governments and intergovernmental and non-governmental organizations, that testify to the responsibility of Armenia and its political and military leadership and subordinate local armed groups for the crimes committed in Khojaly.

9. In paragraph 87 of its judgement of 22 April 2010,⁹ the European Court of Human Rights pointed out that:

It appears that the reports available from independent sources indicate that at the time of the capture of Khojaly on the night of 25 to 26 February 1992 hundreds of civilians of Azerbaijani ethnic origin were reportedly killed, wounded or taken hostage, during their attempt to flee the captured town, *by Armenian fighters attacking the town* (emphasis added).

10. In her letter dated 24 March 1997 addressed to the Minister for Foreign Affairs of Armenia,¹⁰ the Executive Director of the Human Rights Watch/Helsinki responded as follows to attempts by the Armenian propaganda to obfuscate this human rights organization with its fabrications:

Our research and that of the Memorial Human Rights Center found that the retreating militia fled Khojaly along with some of the large groups of fleeing civilians. Our report noted that by remaining armed and in uniform, the Azerbaijani militia may be considered as combatants and thus endangered fleeing civilians, even if their intent had been to protect them. *Yet we place direct responsibility for the civilian deaths with Karabakh Armenian forces. Indeed, neither our report nor that of Memorial includes any evidence to support the argument that Azerbaijani forces obstructed the flight of, or fired on Azeri civilians* (emphasis added).

11. According to the Armenian author Markar Melkonian, who dedicated his book to his brother, the well-known international terrorist Monte Melkonian, who personally took part in the assault on Khojaly, the town "had been a strategic goal, but it had also been an act of revenge".¹¹ Melkonian particularly mentions the role of the fighters of the two Armenian military detachments "Arabo" and "Aramo" and describes in detail how they butchered the peaceful inhabitants of Khojaly. Thus, as he puts it, some inhabitants of the town had almost made it to safety, after fleeing for nearly six miles, when "[Armenian] soldiers had chased them down". The soldiers, in his words, "unsheathed the knives they had carried on their hips for so long, and began stabbing".¹²

⁸ Available from www.regnum.ru/news/223355.html and <http://interfax.az/print/566666/ru>.

⁹ Available from <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-98401>.

¹⁰ Available from www.hrw.org/news/1997/03/23/response-armenian-government-letter-town-khojaly-nagorno-karabakh.

¹¹ Markar Malkonian, *My Brother's Road: An American's Fateful Journey to Armenia* (London and New York, 2005), p. 214.

¹² Ibid., pp. 213-214.

12. It should be particularly noted that the Khojaly events took place in a period when the incumbent president Serzh Sargsyan of the Republic of Armenia served as the head of the illegal separatist regime's "Self-Defence Forces Committee" and, accordingly, his recollections constitute one of the most important sources of evidence. The following words by Mr. Sargsyan leave no doubt as to the question of the perpetrator of the crime in Khojaly:

Before Khojali, the Azerbaijanis thought that they were joking with us, they thought that the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]. And that's what happened. And we should also take into account that amongst those boys were people who had fled from Baku and Sumgayit.¹³

13. Recently, some 12 years later, the interviewer of Mr. Sargsyan, British journalist Thomas de Waal, published the full transcript of his conversation with the future president of Armenia,¹⁴ the contents of which offer the most effective rebuff to the fabrications of Armenian propaganda. Take, for example, the following words by Mr. Sargsyan, which need no further comment:

Yes, it's true that there were civilians in Khojaly. But there were also soldiers together with the civilians. And when a shell flies through the air, it doesn't distinguish between civilian and soldier, it has no eyes. If the civilian population remains behind, even when they have a perfectly good opportunity to leave, it means that they are also taking part in the hostilities.

14. Mr. Sargsyan would most probably refrain from voicing such unconvincing arguments if he were aware of the universally recognized laws of the conduct of military operations, including, above all, those mandating that a clear distinction be maintained between civilians and combatants and prohibiting attacks of an indiscriminate nature. Having made the incontrovertible observation that an artillery shell flying through the air has no eyes, the current president of Armenia could hardly then dispute the fact that those who choose the target and fire the shell against it are the ones with eyes.

15. Furthermore, Mr. Sargsyan debunked the myth about the corridor allegedly left open by the assailants for the civilian population of Khojaly. Thus, answering the interviewer's question on this issue, he readily concedes that "generally speaking, this was after Khojaly", since, at the time, "there was a certain amount of ethnic cleansing", as "it's impossible to do this any other way". In answer to de Waal's question as to whether he had any regrets about the death of thousands of people, Mr. Sargsyan answered quite unabashedly: "I have absolutely no regrets", since "such upheavals are necessary, even if thousands have to die". These words of a person holding the highest political and military post in Armenia speak for themselves and disprove any attempt to deny Armenia's responsibility for the crimes committed against Azerbaijani civilians during the conflict.

¹³ Thomas de Waal, *Black Garden: Armenia and Azerbaijan through Peace and War* (New York and London, 2004), p. 172.

¹⁴ Available from <http://carnegieendowment.org/2012/02/24/president-interview-andtragic-anniversary/9vpa>.

Qualification of the crime

16. The full range of international legal principles is applicable to the situation concerning the territories of Azerbaijan currently under the occupation of Armenia, that is, the Nagorno-Karabakh region and the surrounding territories seized during the armed conflict of the early 1990s. Such legal principles include those relating to the use of force; international humanitarian law; international human rights law and international responsibility.¹⁵

17. There are sufficient grounds to conclude that the Government of the Republic of Armenia and subordinate forces for which it is liable under international law are responsible for serious violations of international humanitarian and human rights law amounting to crimes under international law. The violations of the rules of war by the Armenian side include, inter alia, indiscriminate attacks, including the killing of civilians, the taking and holding of hostages, and the mistreatment and summary execution of prisoners of war and hostages.¹⁶

18. In its relevant resolutions adopted in 1993 in response to the illegal use of force against Azerbaijan and occupation of its territories,¹ the Security Council made specific reference to violations of international humanitarian law, including the displacement of a large number of civilians in Azerbaijan, attacks on civilians and the bombardment of inhabited areas. In its judgement of 22 April 2010,⁹ the European Court of Human Rights qualified the massacre of the Azerbaijani civilian population of the Khojaly town as "acts of particular gravity which may amount to war crimes or crimes against humanity".

19. The official investigation conducted in Azerbaijan has found that the following elements of the crime of genocide, as defined under international law, are present with regard to the attacks on civilians in Khojaly: the *actus reus* consisting of killing and causing serious bodily or mental harm; the existence of a protected group being targeted by the authors of the criminal conduct; and the specific genocidal intent to annihilate, in whole or in part, a group distinguished on racial, ethnic, national or religious grounds. According to the findings of the investigation, the following requirements are met for the purpose of sustaining the genocidal charges with regard to the crime committed in Khojaly: the clear and convincing proof of the intent to destroy the group in whole or in part; the fact that the destruction that took place in Khojaly was "significant" enough to affect the defined group as a whole; and the crime was committed within a specific geographic locality.

20. It should be noted that both Armenia and Azerbaijan are parties to the Convention on the Prevention and Punishment of the Crime of Genocide.¹⁷

Responsibility under international law

21. Offences committed during the conflict between Armenia and Azerbaijan entail State responsibility and individual criminal responsibility under international law.

¹⁵ See A/66/787-S/2012/289, annex, paras. 28-30.

¹⁶ See, Human Rights Watch/Helsinki, *Seven Years of Conflict in Nagorno-Karabakh* (1994).

¹⁷ Armenia became a party to the Genocide Convention on 23 June 1993 and Azerbaijan on 16 August 1996.

22. The key provisions of international responsibility are laid down in the articles on State responsibility adopted by the United Nations International Law Commission on 9 August 2001¹⁸ and commended to States by the General Assembly on 12 December 2001.¹⁹ According to article 1, "every internationally wrongful act of a State entails the international responsibility of that State", while article 2 provides that "there is an internationally wrongful act of a State when conduct consisting of an action or omission (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State".

23. Article 4 (1) of the articles on State responsibility addresses the question of the attribution of conduct to a State, and declares that:

The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State.

24. This principle, which is one of long standing in international law,²⁰ was underlined by the International Court of Justice in the *LaGrand* case,²¹ in which the Court declared that "the international responsibility of a State is engaged by the action of the competent organ and authorities acting in that State, whatever they may be" and reiterated in the case concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide,²² in which the Court noted that it was:

One of the cornerstones of the law of state responsibility, that the conduct of any state organ is to be considered an act of the state under international law, and therefore gives rise to the responsibility of the state if it constitutes a breach of an obligation of the state.

25. Comment 6 to article 4 of the articles on State responsibility underlines the broad nature of this principle and emphasizes that the reference to State organs in this provision:

"Is not limited to the organs of central government, to officials at high level or to persons with responsibility for the external relations of the state. It extends to organs of government of whatever kind or classification, exercising whatever functions, and at whatever level in the hierarchy, including those at provincial or even local level".²³

¹⁸ See A/56/10, section IV. See also James Crawford, *The International Law Commission's Articles on State Responsibility. Introduction, Text and Commentaries* (Cambridge, 2002), and James Crawford, Alain Pellet, Simon Olleson (eds.), *The Law of International Responsibility* (Oxford, 2010).

¹⁹ See General Assembly resolution 56/83. See also Assembly resolutions 59/35 and 62/61 and document A/62/62.

²⁰ See, for example, the *Moses* case, John B. Moore, *International Arbitration*, vol. III, pp. 3127, 3129 (1871).

²¹ Provisional Measures, I.C.J. Reports 1999, pp. 9 and 16.

²² I.C.J. Reports 2007, para. 385. It was held that this principle constituted a rule of customary international law. See also *Immunity from Legal Process of a Special Rapporteur*, I.C.J. Reports 1999, pp. 62 and 87.

²³ See Crawford, *The International Law Commission's Articles on State Responsibility*, p. 95.

26. Similarly, article 5 provides that the conduct of a person or entity which is not an organ of the State under article 4 but which is empowered by the law of that State to exercise elements of governmental authority shall be considered as an act of the State under international law, provided that the person or entity in question was acting in that capacity in the instance in question. Accordingly, activities by armed units of the State, including those empowered so to act, will engage the responsibility of the State. Thus Armenia is responsible internationally for actions (and omissions) of its armed forces in their activities in Azerbaijan.

27. A key element of State responsibility, and one of particular significance for the present purposes, is the rule enshrined in article 8:

The conduct of a person or group of persons shall be considered an act of a state under international law if the person or group of persons is in fact acting on the instructions of, or under the direction or control of, that state in carrying out the conduct.

28. This provision essentially covers two situations, first, where persons act directly under the instructions of State authorities and, second, where persons are acting under State "direction or control". The latter point is critical. It means that States cannot avoid responsibility for the acts of secessionist entities where in truth it is the State that is controlling the activities of the body in question. The difference between the two situations enumerated in article 8 is the level of control exercised. In the former case, the persons concerned are in effect part of the apparatus of the State insofar as the particular situation is concerned. In the latter case, the power of the State is rather more diffuse.

29. The International Court of Justice addressed the matter in the *Nicaragua* case, in which, in paragraph 115, it was noted that, in order for the State to be responsible for the activities, it would need to be demonstrated that the State "had effective control of the military or paramilitary operation in the course of which the alleged violations were committed".²⁴ This approach was reaffirmed in the *Genocide Convention* case.²⁵

30. Accordingly, the conclusion must be that, due to its initial and continuing aggression against Azerbaijan and persisting occupation of that State's territory, accomplished both directly through its own organs, agents and officials and indirectly through the subordinate separatist regime in the occupied Daghylyq Garabagh region over which the Republic of Armenia exercises the requisite degree of effective control as it is understood under international law, the Republic of Armenia bears full international responsibility for the breaches of international law.

31. The Republic of Armenia's international responsibility, which is incurred by its internationally wrongful acts, involves legal consequences manifested in the obligation to cease such acts, to offer appropriate assurances and guarantees that they will not recur and to provide full reparation for injury in the form of restitution, compensation and satisfaction, either singly or in combination.²⁶

²⁴ I.C.J. Reports 1986, pp. 14 and 64 to 65

²⁵ I.C.J. Reports 2007, at para. 398 and following.

²⁶ See Crawford, *The International Law Commission's Articles on State Responsibility*, pp. 66-68, articles 28, 30, 31 and 34-37.

32. It is essential to note that the crime committed in the town of Khojaly should be seen as a serious breach of obligations under peremptory norms (*jus cogens*) of general international law. The obligations under such norms arise from those substantive rules of conduct that prohibit what has come to be seen as intolerable because of the threat it presents to the survival of States and their peoples and the most basic human values.²⁷ Among these prohibitions, it is generally agreed that the prohibitions of aggression, the establishment or maintenance by force of colonial domination, genocide, slavery, racial discrimination, crimes against humanity and torture are to be regarded as peremptory.²⁸ There can be no doubt that Armenia bears full international responsibility for a violation of a number of such prohibitions, as manifested in particular in the criminal acts committed against the civilians and defenders of the town of Khojaly.

33. Serious breaches of obligations under peremptory norms of general international law give rise to additional consequences affecting not only the State bearing the responsibility, but also all other States. As stated in the International Law Commission commentary to the articles on State responsibility, every State, by virtue of its membership in the international community, has a legal interest in the protection of certain basic rights and the fulfilment of certain essential obligations.²⁹ A significant role in securing recognition of this principle was played by the International Court of Justice in the *Barcelona Traction* case,³⁰ in which the Court identified the existence of a special category of obligations — obligations towards the international community as a whole. According to the Court, “By their very nature the former [the obligations of a State towards the international community as a whole] are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*”. In later cases, the International Court has reaffirmed this idea.³¹

34. Inasmuch as all States have a legal interest, particular consequences of a serious breach of an obligation under peremptory norms of general international law include, *inter alia*, duties of States to cooperate in order to bring to an end such breaches by lawful means and not to recognize as lawful a situation created by a serious breach, nor render aid or assistance in maintaining that situation.³²

35. Alongside the Republic of Armenia’s responsibility as a State for internationally wrongful acts, under the customary and treaty norms of international criminal law, certain acts perpetrated in the context of an armed conflict, including those in the town of Khojaly, are viewed as international criminal offences and

²⁷ See A/56/10, comment 3 to article 40 of the articles on State responsibility.

²⁸ *Ibid.*, comment 5 to article 26 and comments 1-9 to article 40 of the articles on State responsibility.

²⁹ *Ibid.*, comment 4 to article 1 of the articles on State responsibility.

³⁰ Case Concerning the Barcelona Traction, Light and Power Company, Limited, I.C.J. Reports 1970, para. 33

³¹ See *East Timor*, I.C.J. Reports 1995, p. 102, para. 29; *Legality of the Threat or Use of Nuclear Weapons*, I.C.J. Reports 1996, p. 258, para. 83; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, Preliminary Objections, I.C.J. Reports 1996, pp. 615-616, paras. 31-32. See also A/56/10, comment 4 to article 1 of the articles on State responsibility.

³² See A/56/10 (Supp.), comment 1-14 to article 41 of the articles on State responsibility. See also General Assembly resolution 62/243, para. 5.

responsibility for them is borne on an individual basis by those who participated in the said acts, their accomplices and accessories. It is well known that both the present and former presidents of Armenia, Serzh Sargsyan and Robert Kocharian, together with many other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and militaries. It is clear that, given the scale and gravity of the offences that they committed, the criminal prosecution of these persons would be an inevitable consequence of their crimes.

36. Under article 147 of the Fourth Geneva Convention, which Armenia and Azerbaijan ratified, on 7 June 1993 and 1 June 1993, respectively, a number of acts committed against persons or property protected by that Convention amount to "grave breaches". Article 86 of Additional Protocol I, which Armenia ratified on 7 June 1993, provides that the parties to the Convention and Protocol are under a particular duty to "repress grave breaches". Under article 88 of the Protocol, the parties "shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of grave breaches of the Convention or of this Protocol".

37. Furthermore, serious violations of international human rights and humanitarian law fall under the purview of the principle of universal jurisdiction in international criminal law, which empowers States to establish their jurisdiction over such crimes and, accordingly, provides unavailability of punishment of the perpetrator, regardless of the place of commission of the crime and the nationality of the perpetrator or of the victim.

Conclusion

38. A response to the large-scale atrocities perpetrated during the Second World War served as the basis for the founding of the United Nations, the proclamation of fundamental values, such as peace and respect for human rights, and the establishment of multinational judicial institutions. The international community, acting chiefly through the United Nations, has proclaimed and set down in international instruments a compendium of fundamental values, such as peace and respect for human rights. The consensus on them was reflected in the adoption in 1948 of the Universal Declaration of Human Rights, according to which "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". Furthermore, important steps have been taken for the protection and vindication of rights and the prevention and punishment of crimes that have an international dimension and scope.

39. However, efforts to ensure a peaceful, just and prosperous world have not always been consistent and successful. As a consequence, civilians continue to suffer from inadequate protection and discriminatory treatment in situations of armed conflict. Unfortunately, not all grave violations of international humanitarian and human rights law have received due attention and a response at the international and regional levels.

40. Despite that, the Republic of Azerbaijan is confident that the consistent measures being taken at the national level, as well as the existing international legal

framework, will serve to bring to justice those responsible for the grave offences committed against the civilian population of Azerbaijan during the conflict. It is incontrovertible today that no official or political status cloaks the person concerned with immunity for the most serious international crimes, such as war crimes, crimes against humanity, genocide and ethnic cleansing.

41. Indeed, the overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan was not an isolated or sporadic act, but was part of Armenia's widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic differentiation and hatred. The intentional slaughter of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

42. It is obvious that impunity still enjoyed by the perpetrators of the crimes continues to impede progress in achieving the long-awaited peace and reconciliation between Armenia and Azerbaijan. Therefore, the establishment of truth in respect to gross violations of international humanitarian and human rights law committed during the conflict, the provision of adequate and effective reparations to victims and the need for institutional actions to prevent the repetition of such violations are all necessary adjuncts to true conflict resolution. Consequently, ending impunity is essential not only for the purposes of identifying the responsibility of parties to the conflict and individual perpetrators, the achievement of which is undoubtedly imperative per se, but also for ensuring sustainable peace, truth, reconciliation, the rights and interests of victims and the well-being of society at large.



Security Council

Distr.: General
21 February 2013

Original: English

Report of the Secretary-General concerning the credentials of the alternate representative of the United Kingdom of Great Britain and Northern Ireland on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 15 February 2013 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations stating that Mr. Thomas Meek has been appointed alternate representative of the United Kingdom on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.



**Security Council**

Distr.: General
25 February 2013

Original: English

**Letter dated 22 February 2013 from the Secretary-General
addressed to the President of the Security Council**

I wish to bring the attention of the Security Council to the fact that the Democratic People's Republic of Korea has submitted, pursuant to article IV of the Convention on Registration of Objects Launched into Outer Space, information on the object launched into space on 12 December 2012. In accordance with my obligations under article III of the Convention, I have registered that information, which has been circulated to Member States in document ST/SG/SER.E/662.

I note that, in its resolution 2087 (2013), the Security Council condemned the launch by the Democratic People's Republic of Korea of 12 December 2012, which used ballistic missile technology and was in violation of resolutions 1718 (2006) and 1874 (2009).

I wish to share with the Security Council my understanding that, as a technical procedure under the above Convention, the act of registration does not confer legality or legitimacy to the launch of 12 December 2012.

I should be grateful if you would bring the present letter to the attention of the members of the Security Council.

(Signed) BAN Ki-moon



**General Assembly
Security Council**

Distr.: General
25 February 2013

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**General Assembly
Tenth emergency special session
Agenda item 5**

**Security Council
Sixty-eighth year**

**Illegal Israeli actions in Occupied East Jerusalem and
the rest of the Occupied Palestinian Territory**

**Identical letters dated 22 February 2013 from the Permanent
Observer of the State of Palestine to the United Nations addressed
to the Secretary-General and the President of the Security Council**

I once again draw the international community's attention to the critical situation of Palestinian prisoners and detainees that are being held captive in Israeli jails, stressing in particular our grave concerns about the situation of prisoners who have been on long-term hunger strikes. Their plight, in addition to the other relentless violations being committed by Israel, the occupying Power, is destabilizing the situation in the Occupied Palestinian Territory, including East Jerusalem.

We must again convey our alarm about the plight of four Palestinian men who have been on long-term hunger strikes — Samer Issawi, Ayman Sharawna, Tareq Qedan and Jaafar Ezzedine — each of whom is being held by Israel under administrative detention for prolonged periods without charge. The non-violent, peaceful protests by these men continue to be treated with callousness by Israel, the occupying Power, endangering their lives. Just yesterday, an Israeli court declared that Issawi's sentence would conclude on 6 March, yet he must still face a military committee that could arbitrarily imprison him for many more years.

While Issawi remains in a prison clinic, Sharawna, Qedan and Ezzedine have been transferred to hospitals due to their declining health, but none have been charged or released. This crisis has engendered numerous protests by Palestinian civilians, as well as the undertaking of a hunger strike on 19 February by hundreds of other Palestinian prisoners in solidarity, raising tensions and instability. As stated, inter alia, in a message last week from Mr. Issawi to the Ministry of Prisoners' Affairs, "The battle waged by me and by my heroic colleagues ... is everyone's battle, the battle of the Palestinian people against the occupation and its prisons ..."

Today, demonstrations in support of the prisoners took place across Palestine, including in East Jerusalem, Ramallah, Bethlehem and Al-Khalil, particularly at the Al-Arroub and Al-Fawwar refugee camps, with dozens of Palestinians injured by the typical brutality of the Israeli occupying forces using tear gas and rubber bullets.



These protests were preceded by demonstrations on 15 February by hundreds of Palestinians outside the "Ofer" prison near Ramallah, who were subjected to excessive Israeli force, with at least 156 people needing medical treatment for tear gas inhalation; other similar protests near Jenin on the same day; again at "Ofer" on 20 February; and yesterday, 21 February, where hundreds of Palestinians protested near Ramallah with at least 29 people being injured by rubber bullets fired by the occupying forces.

We thus reiterate our appeal for intervention by all concerned members of the international community to save the lives of these men and to compel Israel to end its arbitrary detention and imprisonment of Palestinian civilians, to end its abuse of all those held in its captivity and to release them. Here, we express appreciation for the statement you issued on 19 February about the crisis of the hunger-striking prisoners and their deteriorating health conditions. We underscore the call for a solution without delay in order to resolve their plight and for these prisoners "to be charged and face trial with judicial guarantees in accordance with international standards, or be promptly released" and for respect for the 14 May 2012 agreement in this regard.

Today, I must also draw attention to Israel's destructive settlement practices, which continue to provoke the sensitivities and national sentiments of the Palestinian people. Demolition and eviction orders continue to be issued by Israel in its fervent drive to clear large swaths of Palestinian land of its indigenous inhabitants. On 13 February, another 20 Bedouin families were issued eviction orders, as Israel attempts to seize more Palestinian land in the Jaba' area north-east of Jerusalem to the illegal settlement of "Adam". On 21 February, four Palestinian families in Beit Dajan near Nablus were also issued demolition orders. Also, the Israeli occupying forces destroyed, on 20 February, an electricity grid in the village of Qusra near Nablus, cutting off power in the area and injuring several of the Palestinian residents who protested this senseless destruction. Yesterday, occupying forces also entered the southern Gaza Strip and razed farmland east of Khan Younis.

At the same time, the lawlessness of Israeli settlers continues, terrorizing the Palestinian people and making their daily existence in their own homeland miserable. Some of the many recent incidents include the 13 February razing of Palestinian agricultural land owned by two families in an area east of Bethlehem by Israeli settlers under the protection of Israeli soldiers; an attack by Israeli settlers on a 26-year-old Palestinian who was shepherding his flock of sheep in Al-Khalil on 20 February; and an attack on 21 February by armed settlers on the village of Qusra, where they burned six cars and Israeli soldiers then entered the village and used excessive force against the residents.

The overall situation in the Occupied Palestinian Territory, including East Jerusalem, is rapidly deteriorating as a result of such brutality and gross violations by Israel, the occupying Power, of international law, including humanitarian and human rights law. This critical situation warrants the international community's attention and action, including by the Security Council, to preserve calm, to bring an end to these illegal and destructive practices by the Government of Israel and its settlers against the Palestinian people and to preserve the small opportunity remaining for realizing peace and stability in accordance with the two-State solution on the basis of the pre-1967 borders.

This letter is in follow-up to our previous 454 letters regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, which constitutes the territory of the State of Palestine. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 12 February 2013 (A/ES-10/581-S/2013/89) constitute a basic record of the crimes being committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, acts of State terrorism and systematic human rights violations being committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

I should be grateful if you would arrange to have the text of the present letter distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) **Riyad Mansour**
Ambassador

Permanent Observer of the State of Palestine to the United Nations



**General Assembly
Security Council**

Distr.: General
5 March 2013

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**General Assembly
Sixty-seventh session
Agenda item 69
Promotion and protection of human rights**

**Security Council
Sixty-eighth year**

**Identical letters dated 25 February 2013 from the
Secretary-General addressed to the President of the
General Assembly and to the President of the Security Council**

I have the honour to transmit herewith the text of the human rights due diligence policy on United Nations support to non-United Nations security forces (see annex). Member States were advised of my decision to institute this policy by means of a note verbale dated 25 October 2011.

The policy sets out measures that all United Nations entities must take in order to ensure that any support that they may provide to non-United Nations forces is consistent with the purposes and principles as set out in the Charter of the United Nations and with its responsibility to respect, promote and encourage respect for international humanitarian, human rights and refugee law.

I wish to underline that the policy is based on existing standards and obligations that States have accepted through their membership in the United Nations, through their recognition of standards set out in the Universal Declaration of Human Rights and through their acceptance of obligations under key international instruments.

Insofar as the General Assembly and the Security Council may decide to mandate United Nations entities to provide support to non-United Nations security forces, I trust that both the Assembly and the Council will take the policy into account in their deliberations.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the General Assembly and of the Security Council.

(Signed) BAN Ki-moon



Annex

[Original: English and French]

Human rights due diligence policy on United Nations support to non-United Nations security forces

I. Core principles

1. Support by United Nations entities to non-United Nations security forces must be consistent with the Organization's purposes and principles as set out in the Charter of the United Nations and with its obligations under international law to respect, promote and encourage respect for international humanitarian, human rights and refugee law. Such support should help recipients to attain a stage where compliance with these principles and bodies of law becomes the norm, ensured by the rule of law. Consistent with these obligations, United Nations support cannot be provided where there are substantial grounds for believing there is a real risk of the receiving entities committing grave violations of international humanitarian, human rights or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures. For the same reasons, if the United Nations receives reliable information that provides substantial grounds to believe that a recipient of United Nations support is committing grave violations of international humanitarian, human rights or refugee law, the United Nations entity providing such support must intercede with the relevant authorities with a view to bringing those violations to an end. If, despite such intercession, the situation persists, the United Nations must suspend support to the offending elements. Notwithstanding the present policy, existing obligations of human rights, humanitarian and refugee law continue to apply to all United Nations activities.

2. United Nations entities that are contemplating or involved in providing support to non-United Nations security forces must therefore pursue a policy of due diligence, comprising the following key elements:

(a) Before support is given, an assessment of the risks involved in providing or not providing such support, in particular the risk of the recipient entity committing grave violations of international humanitarian law, human rights law or refugee law;

(b) Transparency with receiving entities about the legal obligations binding the Organization and the core principles governing provision of support; and

(c) An effective implementation framework, including:

(i) Procedures for monitoring the recipient entity's compliance with international humanitarian, human rights and refugee law;

(ii) Procedures for determining when and how to intercede with a view to putting an end to grave violations of any of those bodies of law and for deciding, if need be, upon the suspension or withdrawal of support; and

(iii) General operational guidance, as required, by the respective United Nations entities to the country level on implementation of the policy.

3. Adherence to the human rights due diligence policy is important to maintain the legitimacy, credibility and public image of the United Nations and to ensure compliance with the Charter and with the Organization's obligations under international law.
4. Relevant policies and guidelines on specific areas of support, including the guidance notes developed in the inter-agency Security Sector Reform Task Force, must be consistent with the due diligence policy.
5. The present policy is not intended in any way to hinder the normal work of the Organization aimed at encouraging respect for international humanitarian, human rights or refugee law, including developing capacity as well as investigating and reporting on violations of those bodies of law and interceding with relevant authorities to protest those violations, secure remedial action and prevent their repetition. The policy is intended to complement those normal processes.

II. Human rights due diligence policy

A. Scope of the policy

6. The human rights due diligence policy applies to all United Nations entities providing support to non-United Nations security forces. It therefore applies not only to peacekeeping operations and special political missions, but also to all United Nations offices, agencies, funds and programmes that engage in such activities.

B. Definitions

7. For the purpose of this policy, "non-United Nations security forces" include:
 - (a) National military, paramilitary, police, intelligence services, border-control and similar security forces;
 - (b) National civilian, paramilitary or military authorities directly responsible for the management, administration or command or control of such forces;
 - (c) Peacekeeping forces of regional international organizations.
8. "Support" is understood to mean any of the following activities:
 - (a) Training, mentoring, advisory services, capacity- and institution-building and other forms of technical cooperation for the purpose of enhancing the operational capabilities of non-United Nations security forces;
 - (b) Ad hoc or programmatic support to civilian or military authorities directly responsible for the management, administration or command and control of non-United Nations security forces;
 - (c) Financial support, including payment of salaries, bursaries, allowances and expenses, whatever the source of the funds;
 - (d) Strategic or tactical logistical support to operations in the field conducted by non-United Nations security forces;
 - (e) Operational support to action in the field conducted by non-United Nations security forces, including fire support, strategic or tactical planning;

(f) Joint operations conducted by United Nations forces and non-United Nations security forces.

9. "Support" does **not** include:

(a) Training or sensitization regarding international humanitarian, human rights and refugee law;

(b) Standard-setting (e.g. advice on and review of legislation, codes and policies) and capacity support directly related to the implementation and promotion of compliance with human rights laws and standards and to foster democratic governance of security institutions;

(c) Engagement to promote compliance with humanitarian, human rights and refugee law or to negotiate humanitarian access and carry out relief operations;

(d) Mediation and mediation-related support;

(e) Medical evacuation (MEDEVAC) and casualty evacuation (CASEVAC).

10. "Support" may be direct or indirect — that is, through implementing partners.

11. When determining whether an activity constitutes support or not in accordance with paragraphs 8 and 9 above, United Nations entities should consider the need to promote consistency in the implementation of the policy across the United Nations system according to paragraphs 18 and 20 below.

12. "Grave violations" mean, for the purposes of the present policy:

(a) In the case of a unit:

(i) Commission of "war crimes" or of "crimes against humanity", as defined in the Rome Statute of the International Criminal Court, or "gross violations" of human rights, including summary executions and extrajudicial killings, acts of torture, enforced disappearances, enslavement, rape and sexual violence of a comparable serious nature, or acts of refoulement under refugee law that are committed on a significant scale or with a significant degree of frequency (that is, they are more than isolated or merely sporadic phenomena); or

(ii) A pattern of repeated violations of international humanitarian, human rights or refugee law committed by a significant number of members of the unit; or

(iii) The presence in a senior command position of the unit of one or more officers about whom there are substantial grounds to suspect:

- Direct responsibility for the commission of "war crimes", "gross violations" of human rights or acts of refoulement; or
- Command responsibility, as defined in the Rome Statute of the International Criminal Court, for the commission of such crimes, violations or acts by those under their command; or
- Failure to take effective measures to prevent, repress, investigate or prosecute other violations of international humanitarian, human rights or refugee law committed on a significant scale by those under their command;

(b) In the case of civilian or military authorities that are directly responsible for the management, administration or command of non-United Nations security forces:

- (i) Commission of grave violations by one or more units under their command;
- (ii) Combined with a failure to take effective measures to investigate and prosecute the violators.

13. "United Nations" includes any office, department, agency, programme, fund, operation or mission of the United Nations.

C. Risk assessment

14. Before engaging in support, the United Nations entity directly concerned must conduct an assessment of the potential risks and benefits involved in providing support. This assessment should include consideration of the following elements (where a United Nations entity has an existing mechanism in place, this may be used to conduct the assessment in accordance with paragraph 19 below):

(a) The record of the intended recipient(s) in terms of compliance or non-compliance with international humanitarian, human rights and refugee law, including any specific record of grave violations;

(b) The record of the recipient(s) in taking or failing to take effective steps to hold perpetrators of any such violations accountable;

(c) Whether any corrective measures have been taken or institutions, protocols or procedures put in place with a view to preventing the recurrence of such violations and, if so, their adequacy, including institutions to hold any future perpetrators accountable;

(d) An assessment of the degree to which providing or withholding support would affect the ability of the United Nations to influence the behaviour of the receiving entity in terms of its compliance with international humanitarian, human rights and refugee law;

(e) The feasibility of the United Nations putting in place effective mechanisms to monitor the use and impact of the support provided;

(f) An assessment based on the factors above and on the overall context of the support, of the risk that the receiving entity might nevertheless commit grave violations of international humanitarian, human rights or refugee law.

15. Information on the record of the intended recipient with regard to compliance with international humanitarian, human rights and refugee law should be obtained from the United Nations or other reliable sources.

16. Where, as a result of this risk assessment, the United Nations entity directly concerned concludes that there are substantial grounds for believing that there is a real risk of the intended recipient committing grave violations of international humanitarian, human rights or refugee law, notwithstanding any mitigatory measures that the United Nations might take, then the United Nations entity concerned must not engage in the provision of support to that intended recipient. The United Nations entity should make clear that support will not be possible unless

and until the intended recipient takes measures that are of such effect that there are no longer substantial grounds for believing that there would be a real risk of such grave violations occurring. Such measures might include, for example, the removal of an officer from a senior command position when there are substantial grounds for suspecting that officer of being responsible for grave violations of international humanitarian, human rights or refugee law.

17. Where, as a result of the risk assessment, the United Nations entity directly concerned concludes that substantial grounds do **not** exist for believing there to be a real risk of the intended recipient committing such violations, then the United Nations entity concerned may proceed to engage in the provision of support, subject to compliance with the following sections of this policy.

D. Transparency

18. Effective implementation of the policy requires the understanding and cooperation of all stakeholders, including donor and programme countries, troop- and police-contributing countries and host countries of United Nations peacekeeping and political missions. Each entity mandated to or anticipating support for non-United Nations security forces shall engage proactively with Member States and other relevant partners and stakeholders to explain the policy.

19. Before engaging in support to non-United Nations security forces, the responsible senior United Nations official[s] (e.g. Special Representative of the Secretary-General, Resident Coordinator, country representative) should inform the recipient authority/ies in writing of the United Nations core principles for support to non-United Nations security forces under this policy. In particular, recipients should be notified that United Nations support cannot be provided to units that fall under the command of individuals against whom there are substantiated allegations of grave violations of international humanitarian, human rights or refugee law. The recipient authority should also be advised of procedures or mechanisms to implement the policy, as outlined in section III below. It should be made clear to the recipient that, in order to sustain the support, the United Nations is obligated to continuously assess whether or not the recipient's actions are consistent with the Organization's obligations under the relevant bodies of law. While advocacy and communication may be undertaken by a specific United Nations entity, it should be coordinated to promote consistency across the United Nations in-country, and the most senior United Nations official in a given country (Special Representative of the Secretary-General and/or Resident Coordinator) should be kept informed of such steps.

III. Ensuring effective implementation

A. Elements of an implementation framework

20. Implementation of the human rights due diligence policy must take into account the specific mandates of the United Nations entity concerned, as well as the nature and extent of the support, and the political and operational context in which it is delivered.

21. Each United Nations entity providing support must develop an implementation framework in accordance with its management practices in order to ensure compliance with this policy. That framework should be clearly set out in a standing operating procedure or similar instrument. The framework should, where relevant, be reported to the entity's mandating body. Such a framework should include, as required:

(a) Resources required to effectively manage delivery of the support and to monitor and evaluate its impact;

(b) Incentives or other accompanying measures aimed at improving compliance by the recipient with international humanitarian, human rights and refugee law;

(c) Mechanisms for the effective monitoring of the recipient's behaviour to detect grave violations of international humanitarian, human rights and refugee law and the recipient institution's responses to any violations (such mechanisms should include procedures for regular reporting from the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office for the Coordination of Humanitarian Affairs (OCHA) and the United Nations Children's Fund (UNICEF) and from the offices of the Special Representatives of the Secretary-General for Children and Armed Conflict, and the Special Representative of the Secretary-General on Sexual Violence in Conflict);

(d) Well-defined systems for the collation and effective review of information gathered through such monitoring and from other sources, including local protection of civilian networks;

(e) Well-defined procedures to guide decisions by responsible United Nations officials on whether or not violations committed by the recipient entity require intervention with the recipient entity or its command elements or, as a final resort, require the suspension or withdrawal of support under this policy;

(f) Clear procedures for communication with the relevant authorities where United Nations intervention or the suspension or withdrawal of support is required under this policy;

(g) Clear and effective procedures for evaluating and considering the possible risks if support is suspended or withdrawn, including risks to the safety and security of United Nations and associated personnel, and for identifying appropriate mitigatory measures, and ensuring that they are taken.

22. In the application of the policy and the use of measures set out in paragraphs 21 (a) to (g) above at the country level, each United Nations entity should take into account the need to promote consistency in the implementation of the policy across the United Nations system. The most senior United Nations official in country (Special Representative of the Secretary-General and/or Resident Coordinator) is responsible for initiating consultations on the implementation framework with all national and international stakeholders. In the case of integrated missions, consultations between the mission and the United Nations country team should be part of established procedure.

B. Prior advice to United Nations legislative bodies

23. Action by United Nations entities to support non-United Nations security forces requires particularly careful attention due to the special risks, potential liabilities and high visibility involved. It is therefore important that United Nations entities exercise due diligence, in particular by conducting a risk assessment, **before** a mandate or directive is adopted to provide support to non-United Nations security forces. The resulting evaluation should be included in reports or briefings to legislative bodies, as appropriate. In the peacekeeping context, such evaluations should help inform and shape proposals by the Secretary-General to legislative bodies regarding mandates.

C. Reporting and oversight

24. Relevant official United Nations reports (e.g. reports of the Secretary-General to the Security Council, country and thematic reports by United Nations offices, programmes, agencies and funds) should cover support provided to non-United Nations security forces, including the nature and scope of the support, measures employed to ensure compliance with the "due diligence" policy, related actions to promote respect for the core principles of United Nations support and an assessment of the impact of the support.

25. Where critical difficulties arise relating to such support, United Nations entities should report immediately to the relevant decision-making United Nations officials and legislative bodies, as appropriate, on developments related to the elements of the risk assessment that present the Organization or its personnel with the risk of being associated with grave violations of international humanitarian, human rights or refugee law. The United Nations entities involved should report on the circumstances, any measures taken to mitigate or remedy the situation and recommendations for follow-up action.

D. Mitigatory measures

26. If the United Nations receives reliable information that provides substantial grounds for believing that a recipient of United Nations support is committing grave violations of international humanitarian, human rights or refugee law, the United Nations entity providing support should bring these grounds to the attention of the relevant national authorities with a view to bringing those violations to an end.

27. If, despite intercession by the United Nations entity concerned, the United Nations receives reliable information that provides substantial grounds to suspect that the recipient entity is continuing to engage in grave violations of international humanitarian, human rights or refugee law, then the United Nations entity must suspend or withdraw support from the recipient.

E. Operational challenges

28. In the peacekeeping context, withholding or withdrawing support in the face of a failure by recipient security forces to comply with the core principles of the policy may significantly diminish the mission's ability to fulfil the overall mandate and objectives set out by the Security Council. Suspension or withdrawal of logistical, material or technical support may, however, become necessary where continued support would implicate the Organization in grave violations of international

humanitarian, human rights or refugee law. The Secretary-General should keep the Council informed of measures taken by a peacekeeping operation under this policy and, where it is thought that application of this policy would have a critical impact on the ability of the operation to discharge its mandate, should advise the Council in a timely manner and seek the Council's advice regarding the way forward. Similarly, should the withholding or withdrawal of support by a United Nations agency, fund or programme affect the ability of that entity to fulfil its mandate, the Executive Head of the said agency, fund or programme will advise the governing body of the agency, fund or programme in a timely manner, and seek its advice regarding the way forward.

F. Accountability

29. Following endorsement of the present policy framework by the Secretary-General, senior managers at Headquarters (Under-Secretaries-General, the Administrator of the United Nations Development Programme (UNDP), the Executive Directors of funds and programmes) are responsible for ensuring that support for non-United Nations security forces and institutions and implementation of the policy are kept under regular review in their areas of responsibility. They are also responsible for ensuring that significant developments in the implementation of this policy, including mitigatory actions taken under it, are brought to the timely attention of the Secretary-General and the relevant legislative bodies.

30. Where relevant, integrated mission task forces and integrated task forces should include in their agendas a standing item on review and evaluation of support provided to non-United Nations security forces.

31. A further submission to the Policy Committee should be prepared in one year's time, in the light of experience gained to determine, inter alia, if any further implementation measure(s) or mechanisms are required.

**General Assembly
Security Council**Distr.: General
26 February 2013

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General Assembly
Tenth emergency special session
Agenda item 5
**Illegal Israeli actions in Occupied East Jerusalem and
the rest of the Occupied Palestinian Territory****Security Council**
Sixty-eighth year**Identical letters dated 25 February 2013 from the Chargé
d'affaires a.i. of the Permanent Observer Mission of the State of
Palestine to the United Nations addressed to the
Secretary-General, the President of the General Assembly and the
President of the Security Council**

I write in immediate follow-up to our letter of 22 February and preceding letters in which we conveyed our grave concerns regarding the critical situation of Palestinian prisoners and detainees held captive in Israeli jails, including those Palestinians enduring long-term hunger strikes in protest at their administrative detention and other violations of their human rights. We have repeatedly drawn the international community's attention to the plight of Palestinian prisoners and detainees, including the fact of their constant subjugation to physical and psychological abuse and torture by Israel, the occupying Power. Regrettably, our calls to the international community to shoulder its responsibilities with regard to this serious situation have been to no avail, allowing the occupying Power to persist with its arbitrary imprisonment and inhumane treatment of Palestinian civilians, including children, with total impunity.

In this regard, we regret to inform you of the death of a Palestinian prisoner, Arafat Jaradat, aged 30, on 23 February, while in the custody of Israel, the occupying Power, following his arrest last week and forced interrogations by Israeli prison authorities at the "Megiddo" jail. Israeli officials claim that Jaradat had been suffering from injuries after being hit by a rubber bullet and a tear gas canister during protests that had taken place on the day of his arrest (18 February) and claim that he died of a heart attack. However, these claims are being disputed, given that an autopsy that was conducted, with the participation of Palestinian and Israeli experts, of Jaradat's body revealed that he had been subjected to severe beatings, abuse and medical negligence during his captivity, possibly amounting to torture, resulting in at least six broken bones in his neck, spine, arms and legs, in addition to other injuries. Moreover, a lawyer who had last seen Jaradat alive during a hearing held on Thursday, 21 February, said that Jaradat had looked frail and sick as he sat in the courtroom and had told the lawyer that he was suffering great pain owing to



beatings and being hanged for many long hours while being interrogated and that he feared the continuation of such violent interrogation.

This horrific incident is further proof of the inhumane treatment systematically meted out by Israel to Palestinians in its jails and detention centres over the decades of this nearly 46-year military occupation and the sheer disregard for Palestinian life pervasive among the Israeli occupying forces. We call for an impartial international investigation into his death. The international community, including the Security Council, must act to pressure Israel, the occupying Power, to fully abide by international law, including humanitarian and human rights law, in all its actions in the Occupied Palestinian Territory, including East Jerusalem, including with regard to its imprisonment and detention of Palestinian civilians and their treatment while in Israeli captivity. Furthermore, we underscore the high priority accorded to and grave concerns of Palestinian society and the Palestinian leadership for the prisoner issue and reiterate our calls for justice and the upholding of human rights for all Palestinian prisoners, including our demands for international monitoring of their conditions, including hunger strikers, among them Samer Issawi, Ayman Sharawna, Jaafar Ezzedine and Tareq Qedan, and our calls for the release of all Palestinian prisoners and detainees.

In this regard, it is clear that the tragic death of Jaradat, a father of two young children under the age of 3, has further stoked already high sensitivities, tensions and anger among the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem. Protests continue to be held in Palestinian cities, towns and villages in protest at Jaradat's killing, as well as in continuing solidarity with long-term hunger-striking prisoners and all Palestinians imprisoned by Israel, the occupying Power.

On Sunday, 24 February, more than 4,500 Palestinians in Israeli jails launched a hunger strike in protest at Arafat Jaradat's death. Moreover, hundreds upon hundreds of Palestinians have been holding demonstrations throughout the West Bank and the Gaza Strip following his death, particularly in the area of Al-Khalil near Jaradat's village of Sair, where he was buried today, and in Beit Ummar and Al-Arroub refugee camp. The Israeli occupying forces continue to use excessive force against these non-violent protests and demonstrations, injuring dozens of Palestinians, including two who were injured by live fire on Sunday, including a 13-year-old boy.

We thus once again appeal to the international community to give immediate attention to the critical situation in the Occupied Palestinian Territory, including East Jerusalem, as a result of Israel's ongoing violations and crimes against the Palestinian people, including against Palestinian prisoners. The persistence of these violations is severely raising tensions and threatens to further destabilize the already fragile situation on the ground with far-reaching consequences. International law and relevant United Nations resolutions must be upheld and Israel, the occupying Power, must be held accountable for its violations. The human rights of the Palestinian people must be ensured and respected, even while living under foreign occupation. All this is imperative for calm to be preserved and for the prospects that remain for peace to be salvaged.

This letter is in follow-up to our previous 455 letters regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, which constitutes the territory of the State of Palestine. These letters, dated from 29 September

2000 (A/55/432-S/2000/921) to 22 February 2013 (A/ES-10/582-S/2013/109) constitute a basic record of the crimes being committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, acts of State terrorism and systematic human rights violations being committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

I should be grateful if you would arrange to have the text of the present letter distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) Feda Abdelhady-Nasser
Chargé d'affaires, a.i.